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 Yet I, that knew nor marriage peace nor strife,
 Live by a good, by a bad one lost my life.*

*A wife like her I writ, man scarce can wed:
 Of a false friend like mine, man scarce hath read.*

Laur: Lisle excud.



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A True and Historical
RELATION
Of the Poysoning of
Sir Thomas Overbury.

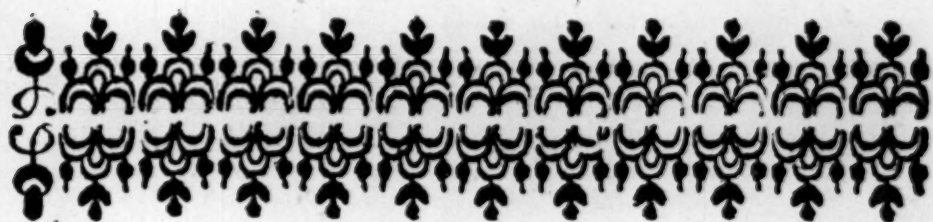
With the
Severall Arraignments and Speeches
of those that were executed
thereupon.

Also, all the passages concerning the
Divorce between R O B E R T late Earle
of Essex, and the Lady F R A N C E S
H O W A R D : with King J A M E S 's and
other large Speeches.

Collected out of the Papers of Sir Francis
Bacon, the Kings Attorney-
Generall.

L O N D O N ,
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in the Middle Temple.

1 6 5 1.



The proceedings which happened
touching the Divorce between the
Lady *Frances Howard*, and *Robert*
Earle of *Essex*.

THE Lady *Frances Howard*, before
the Kings Delegates, *Geor. Canter-*
bury, *John London*, *Lanc. Ely*, *Rich.*
Leichfield and *Coventry*, Doctor
Cesar, *Thomas Parry*, *Daniel Dunne*,
John Bennet, *Franc. James*, and
Thomas Edwards, authorised under the Kings Broad
Seale, Plaintiffs, in *Jan. 1616*.

That she and *Robert Earle of Essex* were married
by publique Rites and Ceremonies of the Church, in
Jan. 1603.

That she at the same time was fully thirteen years
old, and is at this time twenty two, or twenty three.

That the foresaid *Robert* at the time of the preten-
tended Marriage was about fourteen, and is about two
and twenty, or three and twenty at this time; and ever
since, and at this present is a man (as far forth as a man
may judge) and hath been in good health and perfect
estate of body, not any way hindred by any ague or
sicknesse, but that he might have carnall copulation
with a woman.

That since the pretended Marriage at least by the
space of a whole year, and continued three years after
the said *Robert* had fully attained the age of eighteen

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years

yeares (as time and place did serve) after the fashion of other married Folks, the said *Frances Howard* in hope of lawfull Issue and desirous to be made a Mother, lived together with the said *Robert* at bed and board, and lay both naked, and alone in the same bed (as married Folks use) and desirous to be made a Mother from time to time, again, and again yeelded herselfe to his power, and as much as lay in her offered her self and her body to be known, and earnestly desired conjunction and copulation: And also the said Earle in the same time, very often, again and again, did try to have copulation as with his lawful wife, which she refused not, but used the best means she could. Notwithstanding all this, the said Earle could never carnally know her, nor have that copulation in any sort which the Married-bed alloweth; yet before the said pretended Marriage and since, the said Earle hath had, and hath power and ability of body to deal with other women, and to know them carnally, and sometimes hath felt the motions and pricks of the flesh carnally and tending to carnal copulation as he saith, and believeth: but by perpetual and natural impediment hath been hindered all the former time, and is at this present, that he can have no copulation with the said Lady *Frances*.

Furthermore, the said Lady *Frances* hath been, and is a woman fit and able to have copulation with a man and such an one as may be carnally known, neither hath in this regard any impediment.

Moreover the said Lady *Frances* remaineth, and is at this present a Virgin.

Also at the time of the pretended marriage, the said Lady *Frances* was unacquainted with the said Earles want of ability and impediment formerly mentioned.

And furthermore, the said Earle long before this
Suir

Suit commenced, hath very often, and at sundry times confessed in good earnest, before witnesses of good credite, and his friends and kinsfolks, that although he did his best endeavour, yet he never could not, nor at this time can have Copulation with the said Lady *Frances*, no not once.

And also in regard of womanish modesty, the said Lady *Frances* hath concealed the former matter, and had a purpose ever to conceale it, if she had not been forced through false rumours of disobedience to the said Earle to reveale them.

She requireth, since this pretended Matrimony is but a fact, and not in right; It may be Pronounced, Adjudged, and Declared, as none of none effect, and she may be quit and freed from all Knot and Bond of the same, by your Sentence and Authority.

The Earle of Essex replyeth, 5. Jun. 1614.

TO the first and second, he answereth affirmatively.

To the third, he thinketh that at the time of his Marriage he was full fourteen years, and is now twenty two and upwards; neither since hath had, or hath any sicknesse or impediments to hinder him, but that he might have had Copulation of a woman, saving in the time of his sicknesse of the Smal-Pox, two or three years after the said Marriage, which continued for a moneth or six weeks, and at another time, when he had few fits of an Ague.

To the fourth he affirmeth, that for one year he diverse times attempted; that the two other years he did lye in bed most commonly with her, but felt no motion or provocation; and therefore attempted the first year: when he was willing, she shewed her self some-

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times willing, but other times refused.

To the fifth, he answereth, that he never knew her carnally, but found not any defect in himself; yet was not able to penetrate into the wombe, nor enjoy her.

To the sixth, he believeth, that before and after the marriage, he hath found an ability of body to know any other woman, and hath oftentimes felt motions and provocations of the Flesh, rending to carnal copulation; but for perpetuall and natural impediments he knoweth not what the words meaneth, but that he hath layen by the Lady *Frances* two or three years, and hath no motion to know her, and believeth he never shall.

To the seventh, he believeth not that the said Lady *Frances* is a woman apt and fit for carnal copulation, because he hath not found it.

To the eighth and ninth, he believeth them both to be true, and thin' eth that once before some witnesses of credit, he did speak to this purpose, that he had oftentimes endeavoured carnally to know her, but that he did not nor could.

The Lord Arch-bishop his Speech to his Majesty.

IN as much as we firmly believe that the Scripture directly or by consequence doth contain in it, sufficient matter to decide all controversies, especially in things appertaining to the Church, and that Marriage amongst Christians can be no lesse accompted then a sacred thing, as being instituted by God himself in Paradise, honoured by the presence of our Saviour himself, declared by St. *Paul* to be a signe of the spiritual conjunction between Christ and his Church.

I would be glad to know by what Text of Scripture
either

either by the Old or New Testament, a man may have a warrant to make a Nullity of a Marriage solemnly celebrated *propter maleficium versus hanc*: which I doe the rather ask, because I finde warrants expressely (in the Scriptures) to make a Nullity of marriage, *propter frigiditatem*, by the words of our Saviour, *Matth. 9. 12.* For there be some which are Chaste or Eunuches, which are so born of their Mothers belly, and there be some which are made chaste of men, and there be some which have made themselves chaste for the Kingdome of Heaven.

I would also know gladly, what ancient Father amongst the Greeks or Latines, by occasion of interpretation of Scripture, or any disputation hath mentined *maleficium versus hanc*.

The like I demand touching ancient Councils, either General or Provincial, and concerning Stories Ecclesiastical, whether any such matter be to be found in them. If (for ought that appeareth) never mention was made of this untill *Hercanus Rhemensis Episcopus*, who lived 400. years after Christ, it may well be conceived that this was a concomitant of darknesse and Popish superstition, which about that time grew to so great an height (God permitting them) that punishment might fall upon the Children of Unbeliet.

But since the light of the Gospel is now in so great a measure broken foorth again, why should not I hope that those who have imbraced the Gospel should be free from this *maleficium*, especially, since amongst a million of men in our age, there is not one found in all our Country, who is clearly, and evidently known to be troubled with the same; and if there should be any, which should seem to be molested, we are taught to use two remedies, the one spiritual phyfick, the other external.

For the first, our Saviour said, *hoc genus demoni-*

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rum non ejicitur nisi per orationem & Jejunium. And St. Peter speaking of the Devil, *cui resistite firmi in fide*; and the *Canonists* themselves prescribe Alms, Fasting and Prayer, to be used in that case; but that they joyn Supplication and their exorcismes thereunto: And for corporal medicine to be applied therewith, as against a disease. So is the Judgement of our late Divines, whether they speak of *Maleficium* or not.

Now admit the Earle of *Essex* might be imagined to be troubled with *maleficium versus hanc*, I demand what Alms hath been given, what Fasting hath been used, and what Prayers have been poured forth to appease the wrath of God towards him or his wife; or what Physick hath been taken or medicine applyed for three years together: Not one of those things, but the first hearing must be to pronounce a Nullity in the Marriage; of which Declaration, we know the beginning, but no mortal mans wit can foresee the end, either in his person, or in the example.

The Arch-bishop for Confirmation of this opinion shewed the testimony of *Beza*, *Melancthon*, *Perillus*, *Hemingus*, *Pollanus*, *Feriterius*, and *Gautius*.

The Kings Answer.

TO the first Article, That the Scripture doth directly or by consequence contain sufficient matter to decide all controversies, especially in things appertaining to the Church, this is in my opinion *propositus*, and one of the Puritans arguments, without a better distinction or explanation.

For the Orthodox proposition is, that the Scripture doth directly or by consequence contain in it sufficient matter to decide all Controversies in points of Faith
and

and Salvation; of which sort a nullity of marriage cannot be accompted, and therefore your consequence upon the Proposition must faile. For satisfaction of your following Question, I say, your second question doth answer it: if there be warrant in Scripture for pronouncing a Nullity *propter frigiditatem*, then all the means which make him *frigidus versus hanc*, must be comprehended therein: for, why doth our Church justly condemn the Marriage of a man with his Sisters Daughter, or the marriage of two Sisters, but a *paritate rationis*, for none of them is in *terminis* prohibited by Scriptures, onely the construction is gathered a *paritate rationis*: for if it be not lawfull to marry your Fathers Wife, because thereby you discover your Fathers shame; nor his Sister, because she is his Kinswoman; nor your own Sister, because thereby you discover your Father and Mothers shame; it can no more be lawfull to marry your Sisters Daughter, for thereby you discover also your own shame, as also the same reason serves for ascending or descending in points of Consanguinity, *Quia par est ratio*.

The like is in this case: for although Christ spake onely of three sorts of Eunuches, yet *ratio est quia non potest esse copulatio inter Eunuchum & mulierem*; and therefore St. Paul in the 1. of Cor. v. 7. telleth us clearly, that it is not *conjugium sine copulatione*: I conclude therefore, à *paritate rationis*, that Christ did comprehend under these three sorts all inability, which doth perpetually hinder *copulationem versus hanc*: whether it be naturall or accidentall, for what difference is there between cutting off the hand, and being made impotent thereof? *Amputatio & mutilatio membri*, is all one in the Civil law; and it is a little defrauding of the woman, when either he who is to be her Husband is Gelded, or when the use of that member towards her is by any unlawfull means taken from

him: neither is it any way needfull to crave the particular warrant of the Scripture for a Nullity, no more then of warrantie in that place for any Nullity at all: For Christ doth not directly say, that a marriage so married shall be Nullified, neither doth he teach us what form of Process shall be used, in that neither makes he mention of the triennial probation, no more then he forbiddeth marrying within the fourth degree without leave obtained of the Bishop of the Diocesse: It is then sufficient for all moderate examinants to be taught out of the Word of God, that marriage is *nulla sine copula*; and that word, *quos Deus conjunxit*, is never found in Scripture where *durant is* doth not proceed (*viz.*) they two shall be one flesh.

But whether the impediments be universall, or *versus hanc* only, or whether the fault thereof hath been born with him, or done to him by violence, or fallen to him by disease, or disproportion or inaptitude betwixt the persons, or unnaturall practices, that is ever *par ratio*, he is *Eunuchus versus hanc*, & *omnes alias*, seeing to her onely was he married.

Then *paritate rationis*, such nullities are grounded upon the foresaid warrantie of Scripture; neither hath Christ any occasion to speak of Jews marrying, concerning *maleficium versus hanc*; for although it be apparent that God made King *Abimelech* and his servants unable to abuse *Sara Abrahams* wife, and so was made by God himself *Eunuchus versus hanc*, and that be not improbable, that the Devil being Gods Ape, should imitate Gods works by his filthy Witch-craft by making such as God will permit unable *versus hanc*; howbeit, it be very probable that it was long after that the Devil put that trick upon the earth.

As for the third and fourth questions, what mention the Fathers and Councils doe make of *maleficium versus hanc*. I answer, that it may be (if they were searched)

searched) that either something to this purpose in them, or at least *aliquid analogum*, with a *paritate rationis*, or by consequence, may serve to decide the question.

But leaving this to search, my main answer, is, that we must distinguish of times: for in all the first ages as long as persecution lay heavy upon the Church, & before the Empire Christian, the Church did not meddle with any thing which drew a consequence after it of possession or inheritance, as marriage doth. Nay, even divers hundred years after the Conversion of the Emperours, the judgement and disposition of all such questions did still remain *in foro civili*, untill the Popedome began to wax great, and to assume, or rather to usurpe to her self a supream and independant Judicature in all Ecclesiastical Causes; and therefore the Fathers and the Councils had no occasion to make mention of that which was not *presori* at that time.

And besides, that is an evill argument to say such a thing is unlawfull, because the the Fathers and Councils make no mention of it; for you know much better then I, divers and many Points betwixt the Papists and us are never mentioned by the Fathers, because that they could never have dreamed that such questions would arise, and therefore are the Fathers exact onely in such questions, as were agitated upon the stage in their time, as *de Trinitate*, *de Duabus in Christo naturis*, and such like; and therefore sufficient, that there can be nothing found which may justly be understood to contradict this opinion: and it is very probable (I say) before that, this trick of *maleficium* had not been put in practise in the world; and therefore not known or mentioned by them. For why may not the Devil as well finde out new tricks of Witch-craft (when God will permit him) as he doth daily new Sects and Heresies? for his malice can never end untill the end of times.

To

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To the fifth Argument my former question doth also serve, for till the four hundred year after God (it may be) that divellish trick came never to be discovered; you know the old Proverb, *Ex malis moribus bonæ leges*; and it is not unlikely, that that time of darknesse gave the devil occasion to devise such new tricks, (look my *Demonologie*) and yet was that law for which you cite *Ibircanus* by *Charles* the Great, who in many great points (as you know) had so great light as I doe scarce tearm this time a time of blindnesse; but how great soever that darknesse was in point of Superstition, I will still maintain as I have ever done, that for matter of order and policie, all the world shall never be able to finde out any so good, and so old an order of Government to be put in the place of that; in signe whereof there is no well governed Common-wealth in the Christian world wherein the Common-law is not received to judge in questions of that nature. And it is certain that this question now in hand is onely a question of order and policie, for the ground of this question, that the essential point of Matrimony cannot be accomplished *sine copula*, is warranted by Scripture, and warranted by your self.

To your sixth Argument, or rather hope, I fear that hope shal prove contrary to faith; for as sure as God is, there be devils, and some devils must have some power, and their power is in this world, neither are the elect exempted from this power: *Job* was not, *S^t Paul* was not; Christ said to all his Disciples, *Crebuerit vos Sathanas*; and if the Devil hath any power, it is over their flesh; and if over their flesh, rather over the filthiest and most sinful part thereof, whereunto Original sin is soldered. As God before, and under the Law, to shew *officiū altum* of purging mans original sin, the *præputium* of the foreskin. And to exempt these of our Profession from the power of Witchcraft, is a Paradox

dox never yet maintained by any learned or wise men.

That the Devils power is not so universal against us, I freely confesse, but that it is utterly restrained, *quoad nos*, how was then a Minister of Geneva bewitched to death? and were the Witches daily punished by our Law, if they can harm none but the Papists, we are too charitable for avenging them only.

Sathan is permitted to punish man as well for the breach of the second, as of the first Table, and therefore are we no lesse guilty then the Papists are; and if the power of Witchcraft reach to our life, much more to a member not so governed by the fancy wherein the Devil hath his principal operation; and he may so enstrange the Husbands affections towards the Wife, as he cannot be able to performe that duty unto her; for that is a common thing in many mens natures, that they cannot doe that thing but where they love, nor fight but where they are angry: God keep us therefore from putting the trial of our Profession upon Miracles; let the Miracle-mongers live by their owne Trade.

To the seventh Argument touching Remedies, what doe you know whether both parties, or either of them, have used their meanes of remedy or not? and that special remedy should be used publikly? for then I can see no necessity, for *non interest reipub. nec ecclesiae*, and private persons are commanded to their fastings, and their Almes secretly and in private; no such cure also is likely to succeed well, except the parties own hearts and desires be set thereupon.

And as for your conclusion upon the *incommoda*, whether upon his person or the example, I can see none in either, so as to the couple between the marriage was never accomplished; truly they will per-adventure both of them by the Declaration of the Nullity be made capable to accomplish Marriage with others,

others, which they could never doe between themselves, wherein they may have the satisfaction of their hearts, and enjoy the blessing of Procreation of Children. And as for the Example, the Law should be fulfilled, with due administration of Justice, which cannot serve for an example or president of a counterfeit Nullity hereafter: *authoritas facti*, or rather *non facti sed luce clarior* in this case; besides the many probations, and confessions of the parties which have been taken in this processe: whereas by the contrary if they shall be forcibly kept together, their names and shadows may be kept together, but never their persons or affections, and they still be forced to lie in perpetual scandal and misery, or both; and what such a kinde of forced continencie may availe, the Monks continencie may teach us. And for a president in time to come, that reacheth no further then to open a way of lawful relief to any persons who shall chance to be distressed in that sort.

And for the Legal Doubts, they concerne none of your calling; for if your conscience be resolved in point of Divinity, that is your part to give your consent to Nullity, and let the Lawyers take the burden of making it so formal.

And as for the Triennial probation, I hope no man can be so blinde as to make a doubt whether it be taken before or after the suit began.

And in conclusion of divine solution of this question, proved clearly, that this resolution of this doubt, howsoever it was in blindnesse, as you think, that is now proved in the greatest time of light and purity of the profession of the Gospel: And for your extract upon the late Divines opinions upon this question, I cannot guesse what your intent was in sending them to me, for they all agree in tearms of my opinion; but there is such a thing as *Maleficium & maleficiale versus hanc*:

hanc : And your very enterlude passage proves the clearest ; and for that advice concerning the Remedies , that is *consilium non decretum* , not imposing a necessity , but is to be used by discretion , as occasion shall serve or require it.

To conclude then, if this may satisfie your doubts, I will end with our Saviours words to *St Peter* , *Cum conversus fueris confirma fratres tuos*; for on my conscience, all the doubts that I have seen, are nothing but *Nodos in scirpo quarere*.

The Midwives appointed to make inspection upon the Ladies body , gave in, that the Lady of *Essex* is a woman apt to have copulation, to bring forth children , and that the said Lady is a Virgin and uncorrupted. Three Ladies affirme that they believe the same , for that they were present when the Midwives made their inspection , and did see them give good reasons for it.

There is a sentence of Divorce given for the Nullity of the Marriage , and both parties married againe.

The Commissioners that gave the Sentence.

Bishops { *Winchester.*
 { *Ely.*
 { *Coventry and Liechfield.*
 { *Rochester.*

Doctors { *Sr Julius Caesar.*
 { *Sr Thomas Parry.*
 { *Sr Daniel Dunne.*

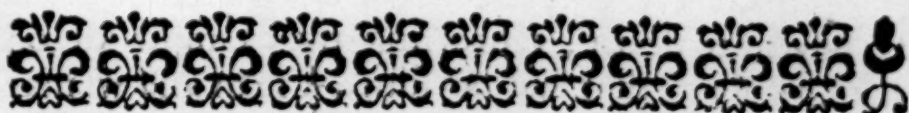
Commissioners

Commissioners dissenting.

Bishops { *Arch. B. of Canterbury.*
 { *Bishop of London.*

Doctors { *Sr John Bennet.*
 { *Fran. James.*
 { *Tho. Edwards.*

The



The proceedings against Richard Weston, at his Arraignment at Guild-hall, Novem. 19. 1615. before the Lord Maior, the Lord Chief Justice of England, and three other Justices of the Kings Bench, Crook, Dodrige, and Hanton, and Serjeant Crew another of the Commissioners.

THE Court being set, the Kings special Commission being read, the Lord Chiefe Justice gave the Charge; the effect whereof was, First, to expresse the Kings pious inclination and command unto just proceedings against all such as should be any way proved to be guilty of the murthering and poysoning of Sr Tho. Overbury, his Majesties prisoner in the Tower.

Secondly, to aggravate the manner, and quality of the murther, in shewing the baseness of poysoning above all other kinds of murther; declaring the vengeance of God, and his justice in punishing the offenders; he alleadged Gen. 9.6. *Quicumque effunderit humanum sanguinem effundetur sanguis illius, ad Imaginem quippe factus est homo*: He also took the example of Urias by David; he therein observed how adultery is most often the begetter of that sin.

Then he declared that of all Felonies, murther is the most horrible; of all murders, poysoning the most detestable; and of all poysoning, the lingering poysoning.

He shewed how by an Act of Parliament, 22. H. 8, 9.

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it was made Treason, and that wilful poysoners should be boyled to death, rehearsing the example of one *Richard Rouse* that had poysoned a man and woman, and was therefore scalded to death.

Then he laid open to the Jury the basenesse and cowardlines of poysoners, who attempt it secretly, against which there is no means of preservation or defence for a mans life; and how rare it was to heare of poysoning in *England*, so detestable to our Nation, but that since the Devil hath taught divers to be so cunning in it, so that they can poyson in what distance of place they please by consuming the *Nativum calidum*, or *humidum radicale*, in one month, two or three, or more as they list, which they foure manner of wayes do execute, 1 *Gustu.* 2 *Haustu.* 3 *Odore.* 4 *Contactu.*

He finisheth his charge with serious exhortations to the Jury to do justice in presenting the truth, notwithstanding the greatnesse of any that upon their evidence should appeare to be guilty of the same offence, comforting both Judge and Jury with the Scripture, *Psal. 5. 8. fin. For thou Lord wilt blesse the righteous, with favour wilt thou comfort them as with a shield.*

The charge being ended, the Jury consisting of fourteen persons, did for the space of an houre depart from the Court into a private room, where they received their evidence from Mr. *Fanshaw* his Majesties Coroner, and his Highnesse Councel prepared and instructed for that purpose, with the examinations and confessions as well of the Prisoner himselfe, as of divers witnesses before that time taken by the Lord Chiefe Justice of *England*, and others of the Lords of his Majesties Councel.

In the mean time Mr. *William Goare* Sheriffe of *London*, was commanded to fetch his Prisoner remaining in his house, to be ready in Court for his Arraignment:

ment: So a certaine space after, the Grand Jury returned to the Bar, and delivered in their Bill of Indictment, signed *Billa vera*; whereupon the Prisoner was set up to the Bar, and the Indictment read by Mr. *Fansham*, which contained in effect:

That *Richard Weston* being about the age of sixty yeares, not having the feare of God before his eyes, but instigated by the Devil, devised and contrived not only to bring upon the body of Sir *Tho. Overb.* great sicknesse and diseases, but also deprive him of his life: and to bring the same to passe, the ninth of May 1613. and in the eleventh yeare of his Majesties Reigne, at the Tower of *London* in the Parish of *Albhallows Barking*, did obtaine and get into his hands certaine poyson of green and yellow colour, called *Rosacar* (knowing the same to be deadly poyson) and the same did maliciously and feloniously compound and mingle with a kinde of Broth powred into a certaine dish, and the same Broth so infected, did give and deliver to the said *Sr Tho. Overb.* as good and wholesome Broth, to the intent to kill and poyson the said *Sr Tho. Overb.* which Broath he took and did eat.

Also the said *Weston* upon the first of July, an. 11 Reigne aforesaid, did in like manner get another poyson or poysonous powder, called *White-arsnick*, and knowing the same to be deadly poyson, did give unto the said *Sr Tho. Overb.* as good and wholesome to eat, who in like manner took and eat the same.

Also that *Weston* upon the said nineteenth of July following, did get another poyson called *Mercury sublimete*, knowing the same to be mortal poyson, and put and mingled the same in Tarts and Jellies, and gave the same to the said *Sr Tho. Overb.* as good and wholesome to eat, which he in like manner took, and did eat.

Also the said *Weston*, and another man unknown
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(being an Apothecary) afterwards upon the fourteenth of *Decem.* feloniously did get a poyson called *Mercury sublimare*, knowing the same to be deadly poyson, and put the same into a Glister; and the said Glister, the said Apothecary for the reward of 20 *li.* promised unto him, did put and administer as good and wholesome into the guts of the said *S^r Thomas*; & that *Weston* was present and aiding to the said Apothecary in ministering & infusing the said Glister; and immediately after *S^r Th.* did languish, and fell into diseases & distempers, and from the aforesaid times of raking and eating the said poysoned meats, and ministering the said Glister, he dyed. And so the Jury gave their verdict that *Weston* in this manner had killed, poysoned, and murdered the said *S^r Tho. Overbury*, against the Kings peace and dignity.

Which Indictment being read, he was demanded if he were guilty of the Felony, murdering and poysoning as aforesaid, yea, or no? To which he answered, doubling his speech, *Lord have mercy upon me; Lord have mercy upon me.* But being again demanded, he answered, Not guilty; and being then demanded how he would be tryed, he answered, He referred himself to God, and would be tryed by God, refusing to put himselfe and his cause on the Jury or Country according to the Law and Custome.

Hereupon the Lord Chiefe Justice, and all other in their order, spent the space of an houre in perswading him to put himselfe upon the trial of the Law, declaring unto him the danger and mischief he runnes into by resisting his ordinary course of triall, being the means ordained by God for his deliverance if he were innocent; and how by this means he should make himselfe the authour of his owne death, even as if he should with a knife or dagger kill or stab himselfe; exhorting him very earnestly either with repentance

to confesse his fault, or else with humility and duty to submit himselfe to his ordinary trial; whereupon he stubbornly answered, Welcome by the grace of God; and he referred himself to God, and so no perswasions would prevail: The Lord Chiefe Justice plainly delivered his opinion, that he was perswaded that *weston* had been dealt withall by some great ones (guilty of the same fact) as accessary, to stand mute, whereby they might escape their punishment; and therefore he commanded (for satisfaction of the world) that the **Queens Attorney** there present should declare and set forth the whole evidence without any fear or partiality; and yet notwithstanding, he once more used much perswasion to the Prisoner to consider what destruction he had brought upon himself by his contempt, and declared unto him his offence of contempt was in refusing his triall, and how the Laws of the Land had provided a sharp and more severe punishment to such offenders, then unto those that were guilty of high Treason, and so repeated the form of the Judgement given against such, the extremity and rigor whereof was exprest in these words; *Onore, frigore, & fame.*

For the first, that he was to receive his punishment by the Law, to be extended, and then to have weights laid upon him, no more then he was able to bear, which were by little and little to be increased.

For the second, that he was to be exposed in an open place near to the prison in the open aire being naked.

And lastly, that he was to be served with the courst bread to be gotten, and water out of the next sink or puddle to the place of Execution; and that day he had water, he should have no bread; and that day he had bread, he should have no water: and in this torment he was to linger as long as nature could

linger out; so that oftentimes they lived in the extremity eight or nine dayes : adding further , that as life left him, so judgement should finde him ; and therefore he required him upon considerations of these reasons , to advise himself to plead to the Country , who notwithstanding absolutely refused.

Hereupon the Lord Chiefe Justice willed *S^r Lawrence Hyde* the Queens Attorney, and there of Counsel for the King , to manifest unto the audience the guiltinesse of the said *Weston* by his owne confession, signed with his owne hand; and if in the declaration thereof they met with any great persons whatsoever (as certainly there was great ones confederates in that fact) he should boldly and faithfully open whatsoever was necessary , and he could prove against them; whereupon *M^r Attorney* began his accusation.

First , he charged the Countesse of *Somerset* and and the Earle to be principal movers of this unhappy conclusion, *Mrs. Turner* to be of the confederacie, and the pay-mistresse of the Poysoners rewards ; in which I could not but observe the Attornies boldnesse in tearing the Countesse a dead and rotten branch, which being lopt off , the whole Tree (meaning that noble Family) would prosper the better.

Secondly, he proceeded to the cause , which he affirmed to be the malice of the Countesse , and the ground of this malice he alleadged , and by many inducements he evidently affirmed that *S^r Tho. Over.* had perswaded him from that adulterate marriage of the Countesse of *Somerset* then Countesse of *Essex*, and for this he alleadged as followeth.

S^r Tho. Over. having divers times dissuaded the Earle, then Viscount *Rochester* , from seeking by any means to procure marrying with the Countesse of *Essex* (to which he saw the Earle too much inclined) having

having very earnest conference with the Earle one night in private in the Gallery at *white-hall* concerning his intendments, perceiving the Earle that time too much to desire that unlawful conjunction; in the ardency of his fervent affection unto the Earle, and great prescience of future misery it would inevitably bring unto him (his wel-beloved Lord, and friend) used speeches to this effect: Well my Lord, if you do marry that filthy base woman, you will utterly ruine your honour, and your selfe; you shall never do it by mine advice or consent: and if you do, you had best look to stand fast.

My Lord replied (bewitched with the love of the Countesse, and moved with the words of *Sir Tho. Over.* for sleighing her) My owne legs are streight, and strong enough to bear me up; but in faith, I will be even with you for this: and so parted from him in a great rage.

This conference was over-heard by some in an adjoyning room, and their depositions for the truth thereof were read in Court.

Although this conference moved the Earle to such a suddain choler, yet it seemed *Sir Tho. Over.* conceited it not to be otherwise then a suddain extream distemperature, or passion, and not a final conclusion of their bosome friendship; in which the Earle seemed as reciprocal as before, howsoever in his double dealing it seemed to be clearly otherwise.

For upon this the Earle moved the King to appoint *Sir Tho. Over.* to be Ambassadour for *Russia*: the King willing to prefer *Sir Thomas*, as one whose worth and valour was yet unknowne to his Majesty, accordingly injoynd him that service; the which *Sir Thomas* was most willing to accept of as a gracious aspect of the King towards him: which wil-

lingnesse of his was proved by the depositions of two or three witnesses read in Court, and by the oath of Sir *Dudly Diggs*, who voluntarily at the arraignment in open Court upon his oath witnessed how Sir *Thomas* had imparted to him his readinesse to be employed in an Ambassage.

The Earle as well abusing the Kings favours in moving to shew favour, wherein he meant the party should take no benefit, as bearing dishonest friendship in conference with Sir *Thomas* concerning that employment, perswaded him to refuse to serve Ambassadour, whereby (quoth he) I shall not be able to performe such kindnesse to your advantage, as having you with me; and (quoth he) if you be blamed or committed for it, care not, I will quickly free you from all harme: Sir *Thomas* thus betrayed by a friend, refused to serve in that nature, whereupon by just equity he was committed to the Tower.

Being thus committed, he was presently committed close prisoner, and a Keeper he must have, and who must that be but this *weston*, who was commended by the Countesse of *Essex* to Sir *Thomas Monson* to be by him commended over unto the Lieutenant of the Tower to be Keeper to Sir *Tho.* Over. Sir *Tho. Monson* according to the Countesses request, commended the said *weston* to Sir *Jervas Elvis*: whereupon the Lieutenant entertained the said *weston*, and appointed him to be Keeper to Sir *Th.* Overb. The said *weston* upon his own confession read in Court, signed with his mark, had during the time that she was Countesse of *Essex*, been a procurer and a Pander to the said Earle Viscount *Rochester*, and the said Countesse of *Essex*, for the convening and effecting of their adulterate desires, which they did divers times consummate, meeting in Mrs. *Turners* house once between the houres of eleven and twelve at

at *Hamerfsmith*, and divers times ellewhere for that purpose; so that now by the procurement of the said Countess (who hated Sir *T. Overb.* for being a means to keep them from contaminating themselves with such lustful imbracements, and from the proposed Marriage they mutually laboured to compass) Her Pander was become his Keeper, a fit Agent for Lust and Murther.

Weston now being become Sir *Tho. Overb.* Keeper, kept him so close, that he could scarce have the comfort of the dayes brightness, neither suffered he any one to visit him, father, brother, his best friends, his neereft kindred were strangers to him from the beginning of the imprisonment unto the end.

Mrs. *Turner*, upon the first dayes keeping, promised him a contented reward if he would administer such things to Sir *Tho. Overb.* as should be sent unto him, thinking him a fit instrument to compass black murther, that was so well acquainted with fowl lust (and so indeed they found him,) for he agreed, and did promise to administer whatsoever she would send him. Mrs. *Turner* upon this murtherous promise, the very same day *Weston* became Sir *Tho.* Keeper, being 6. May, 1613. sent unto him the said *Weston* certain yellow poyson called *Rosacar*, in a viall; *Weston* having received that poyson the foresaid 6. May, at night bringing Sir *Tho. Overb.* supper in one hand, and the vial in the other, meets with the Lieutenant, and asks him in these terms, Sir, shall I give it him now; upon this word now my Lord Chief Justice demurs to aggravate the maliciousness, affirming that this particle now shewed a resolution to poyson him, onely fit time and circumstances were to be respected by him. What shall you give him? replies the Lieutenant. *Weston* replies, As if you do not know Sir. The Lieutenant blaming him, he carries the poyson into an inner
C 4 room,

room, which *Weston* did administer to Sir *Tho. Overb.* the 9. May in broth : this was proved both by *Weston* and the Lieutenants Confession.

Weston having given this poyson, which wrought very vehemently with him by vomits, and extream purging, he presently demands his reward of Mrs. *Turner*, who replies, The man is not yet dead, perfect your work, and you shall have your hire. This was confessed by *Weston* under his mark.

Sir *Tho. Overb.* by his close inaprisonment and poyson, growing sick, and daily languishing, after three or four weeks space considering he had not obtained his freedome and release, having no friends suffered to come unto him, but onely such as the Earl sent to comfort him (of his own followers) wrote to the Earl to remember his imprisonment, who returned answer, The time would not suffer, but assoon as possible it might be he would hasten his delivery (so indeed it seems he intended to do) but not so as Sir *Tho. Overb.* conceived, whose true affection would not admit his judgement to debate the strangeness of his imprisonment, which he might well think then the Earl might easily have relieved.

On the 5. of June Viscount *Rockester* sent a Letter to Sir *Tho. Overb.* in the Letter he sent him a white powder, willing Sir *Tho.* to take it, It will (quoth he) make you more sick, but fear not, I will make this a means for your delivery, and for the recovery of your health : Sir *Tho.* never dreaming of base treachery, but conceiving of it as friendly policy, received the said powder, which wrought upon him most vehemently, whereupon his sickness grew more violent, and his languishment encreased : which white powder upon *Westons* confession was poyson.

Sir *Tho. Overb.* his sickness encreasing, and with it his wondring that he could not in two months be released

leased after his Physick taken, he thus wrote to the Earl, lamenting his own estate, and taxing the Earl of his forgetfulness of his weak estate; for his faith being thus shaken with the Earls unkindness, gave way for his judgement to scan those actions, rather like an understanding man, then a loving friend, as appeareth by his Letter sent to *Rocheſter*, the effect whereof was thus, as is averred by the depositions of *Sir Tho. Overb.* servants, who saw the Letter.

Sir, I wonder you have not yet found means to effect my delivery; but I remember you said you would be even with me (not suspecting, as it seemeth, any poysoning, but an unkind forgetfulness of my Lord of Rocheſter) and so you are indeed; but assure yourself my Lord, if you do not release me, but suffer me thus to dye, my blood will be required at your hands:

My Lord comforts him, and excuses, that it cannot yet be compassed. *Sir Tho.* after the powder taken languished deadly, and to comfort him some followers of my Lord of *Rocheſter* are sent to him daily, in the name of my Lord, by the appointment and procurement of the Lady *Essex* (as *Weston* confessed) to visit, and comfort him; and intreat him, if he desired any meats, he should speak, and it might better (perhaps) be provided for him then he should have any from the Tower. This was three moneths after his imprisonment.

He, as men sick, desired luscious meats, Tarts and Jellies, which were provided by *Mrs. Turner* with the knowledge of the said Countess, and sent unto him, of which he did eat, the which Tarts were poysoned with *Mercury sublimite*, not being so well coloured as other Tarts are; and *Weston* confessed, that he was straightly charged not to taste thereof.

Sir

Sir *Tho.* thus continuing languishing and consuming with the extremity of sickness untill 6. *Septemb.* then the aforesaid Mrs. *Turner* did procure an Apothecaries boy for 20. l. to poyson a Glyster, which was by the boy and *Weston* afterwards administred as good Physick upon 7. *Octob.* After the receipt of the Glyster, he fell into great extremity of vomiting and other purging, which left him not till it caused his soul to leave his poysoned body. This *Weston* confessed and signed.

Being thus dead, he was presently and very unreverently buried in a pit digged in a very mean place. On his body thus venomously infected appeared divers blains and blisters, whereupon they to take away as well his good name as his life, did slanderously report that he dyed of the French Pox; but this report was cleared in Court by the depositions of his servants and other men of worth there read, that before his imprisonment he was a clear and sound body, only he had an Issue in his left arm purposely made for the benefit of his nature, for the avoiding of Rhume and ill humours, which with continual sitting at his study he had subjected himself unto. He further observed the confession of the Lieutenant to be, that if any prisoner dyed there, his body is to be viewed, and inquisition to be taken by the Coroner.

But Sir *Tho. Overb.* friends and others might by no means be suffered to see his body, although it was reported that there was Inquisition taken, yet it could by no means be found.

After Mr. Attorney had ended his speech, Mr. *Warr* also of Counsel for the King, declared to the Court what familiarity he had with Sir *Tho.* being both of the Temple together, much commending his singular honest and vertuous conversation, affirming that he was addicted to no dishonest actions; and from this
he

he proceeded to urge his hard usage in the Tower, where he might have no company but the Apothecary and a Walloon, and repeating the sending of the Tarts and Jellies in my Lord of *Somersets* name, and ending his speech with this saying, *Pereat unus ne pereant omnes; pereat peccans, ne pereat Respub.* Then by the commandment of the Court were read by Mr. *Fanshaw* the examination of divers witnesses taken before the Lord Chief Justice and others, which in effect was as followeth.

Lawr. Davis *servant to Sir Tho. Overbury* examined
15. Octob. 1615. before the Lord
Chief Justice.

HE said, that he had served Sir *Tho. Overb.* eight or nine years, in all which time he was very healthful, and never kept his bed for any sickness, only he was troubled sometimes with the Spleen, for ease whereof he had by the advice of his Physician an Issue made in his left arm, but before his imprisonment he had no sores, blisters, or other defects in his body. Also he saith, Sir *Tho.* would have gone over upon the Embassage, but was dissuaded by *Somerfet*, who promised to bear him out. He complained, he needed not to be a prisoner, if *Somerfet* would; and if he dyed his blood should be required at his hands: That *Somerfet* was as good as his word, who told him at *Newmarket* he would be even with Sir *Tho. Overb.*

Henry

Henry Payston *another servant of Sir Tho.*
Overb. examined, 15. Octob-

1615.

HE affirmeth, that Sir *Tho.* was of a very good constitution of body; that he used sometimes to run, to play at Foiles, and such like; that he was of a moderate diet, never had any sores saving the said Issue in his arm; that Sir *Tho.* wrote Letters to *Somerſet*, signifying he needed not to lye in prison if *Somerſet* would, and if he dyed, his blood should be required at his hands; also that Sir *Tho.* at one of the clock at night meeting *Somerſet* in the Gallery at *White-Hall*, had speeches with him touching the Countess, whom he called base woman, and told *Somerſet* he would overthrow all the Kings favours and honours: and upon displeasure between them at this conference, Sir *Tho.* desired *Somerſet* he might have his portion due, and he would shift for himself, whereunto *Somerſet* answered, *And my legs are strong enough to carry me*, and so flung away in an anger; all which this examinant heard, being in a chamber next to the Gallery.

Sir *Dudly Diggs* being present in Court, and sworn, declared *Viva voce*, that he was sent by a Privy-Councillor a great man to Sir *Tho. Overb.* to bring him to this great man, which he did, and coming back together over the water in a Boat, Sir *Tho.* was much discontented, the reason whereof he said was, that he was perswaded by the great man to withdraw himself from the Court for some reasons which he disclosed; not and Sir *Dudly* being sent afterwards by the Lords to know the resolution of Sir *Tho.* touching the Embassage, he found him to rely upon my Lord of *Somerſet*, saying, My precious Chief knows the Kings mind

mind better then any, and I the mind of my precious Chief.

Richard Weston the Prisoner 6. Octob.
coram Cook & Crew.

HE affirmeth, that before Sir Tho. was in the Tower, he this examinant carried three Letters to *Somerset* for the Lady *Essex*, to *Royston*, *Newmarket*, and *Hampton-Court*, and he delivered answer to Mrs. *Turner*, and that upon the Letter to *Hampton-Court* he had answer by word of mouth, only that his Lordship would come; and that coming back he met with the Countess and Mrs. *Turner* half way, in the Coach, whom he told that the Lord onely answered so, whereupon the Countess strook out of the way into a Farmers house hard by, whither within a little space *Somerset* came; and that afterwards they met in the night at Mrs. *Turners* house in *Pater-noster-row*; and he confesseth, that of a year before Sir Tho. his imprisonment no man carried Letters between them but he.

Sir Tho. Monson, 5. Octob. coram Cook
& Crew.

HE saith, that he never knew *Weston* until Sir Tho. *Overb.* was prisoner in the Tower, and that he preferred him to the Lieutenant to be Keeper to Sir Tho. *Overb.* at the request of the Countess.

Anne

*Anne Turner widow examined 11 Octob. 1615.
coram Cook.*

SHe saith that *weston* was an ancient servant, and her husbands Bayliffe in the Country: she denieth to have any thing to doe in placing him in the Tower; but saith the Countesse of *Essex* did effect it, and used the helpe of Sir *Tho. Monson* therein.

*Sir Jervas Elvis examined 3. Octob. 1615. coram
Cook & Crew.*

HE saith, that he had a letter from Sir *Tho. Monson*, requesting him that *Weston* might be Keeper to Sir *Tho. Overb.* and that he did performe it; and afterwards having conference with Sir *Tho. Monson*, told him that his Keeper was not to suffer any letters or tokens to be delivered to him.

Richard Weston the prisoner examined againe.

HE confesseth he shewed the Glasle that was delivered him by his son from the Countesse, to the Lieutenant, and told him it came from the Countesse of *Essex*, and that he perswaded him not to give it to Sir *Tho. Overb.* and saith he had divers Tarts from the Countesse to give to *S^r Thomas*, with Caveats that himself should not taste of them, and confesseth he thought they were poysoned. He saith Mrs. *Turner* appointed him to come to *white-hall*, and that she dealt with him to give Sir *Tho. Overb.* the water, and told him he should not drinke thereof, and promised him a great reward, and he suspected it was poyson; his son afterwards delivered him the glasse which he shewed to the Lieutenant, who rebuked him; and so

he

he set the glasse in a study near to Sir *Thomas* his chamber, but gave it him not, although he told Mrs. *Turner* the next day he had given the water, which made Sir *Thomas* to vomit aften, and to be exceeding sicke. He saith Mr. *James*, and Mr. *Rawlings*, servants to the Countesse, came often to know of this Examinant how Sir *Thomas* did, and what he would eat, and they delivered him Jelly and Tarts, which he gave to Sir *Thomas* who did eat thereof. He saith he demanded of Mrs. *Turner* his reward, who answered, he was not to have his reward untill Sir *Thomas* was dead, and that he was promised a Pursevants place, but confesseth that afterwards at two severall times he received secretly after the death of Sir *Thomas* for a reward by Mrs. *Turner*, from the Countesse, 180 li.

William Weston, son to the prisoner examined.

HE confesseth he received a Glasse from the Countesse by her servants two inches long, being wrapped in a paper, which he delivered to his father in the Tower.

Then was read the confession of the Lieutenant to the King, that *Weston* met him, carrying Sir *Thomas*'s supper in one hand, and the glasse in the other, and demanded of the Lieutenant thus; Sir, shall I give it him now? whereat the Lieutenant stepped to him, and asked him what? to which *Weston* said, why, know you not what is to be done? and so the Lieutenant having made him to confesse the matter, dissuaded him, and he seemed to be resolute not to do it; and afterwards this *Weston* confessed to the Lieutenant an Apothecary had twenty pound for ministring a Glister to Sir *Tho. Overbury*.

Weston

*Weston the prisoner examined before the Lord
Zouch, and others.*

Confesseth, that Sir Thomas had a Glyster which gave him sixty stools and vomits: also being confronted with the writings of Sir *Jer. Elvis*, and charged therewith, confesseth the same to be true.

Simon Marson Musitian examined.

Saith he served Sir *Tho. Monson* six years, and was preferred by him to the Kings service, but waited sometimes upon Sir *Thomas Monson*; he saith he received divers Tarts and Jellies from the Countesse of *Essex*, to be carried to the Lieutenant of the Tower for Sir *Tho. Over*.

Paul de la Bell examined.

Saith, that the third of *July*, he made Sir *Tho. Over*. a Bath by Dr. *Michams* advice to coole his body, and he saw his body exceeding fair and clear; and again, he saw his body (being dead) full of Blisters, and so consumed away as he never saw the like body.

*Giles Rawlings a kinsman of Sir Thomas Over-
bury examined.*

Saith, upon the bruit of the murther of Sir *Tho.* he was taxed by some why he made no prosecution; he thereupon made a Petition, and delivered it to the King, that the examination of the cause might be referred to the judgement of the Law, and denieth

denieth that he was perswaded by any to the contrary. He saith, that he comming often to the Tower to see Sir Thomas, could not be suffered to see him so much as out of the windows, and *Weston* told him it was the commands of the Councel, and the Lieutenant.

The Lieutenant of the Tower examined.

HE saith, that after the death of Sir Thomas, *Weston* came to him and told him, he was much neglected and sleighted by the Countesse, and could receive no reward; but afterwards he confessed he had received a hundred pounds, and should receive more; and the Lieutenant also saith, that Sir Thomas was very angry with his Apothecarie at certain Vomits which he had; and also that the Tarts and Jellies which he had; would be found within a day or two standing ill coloured; and that no body did eat thereof but Sir Thomas; and *Weston* confessed to him that an Apothecarie had twenty pounds for ministering the Glyster. These examinations being read and applied to the purpose, the Lord Chief Justice said he would discharge his duty first to God, in giving all glory for the bringing to light of so horrible and wicked a fact; and next to the King (his great Master) who as in case of the like nature, in the case of *Zanq.* and *Turner*, so specially in this case hath given streight charge of due and just examination to be had without any partiality or fear of the world; to the intent as well the innocent might be free, as the nocent and guilty severely punished.

And for this purpose, his Majesty had with his owne hand written two sheets of paper on both sides, concerning Justice to be administred to all persons which were to be examined; which writing the Lord

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Chief

Chief Justice shewed to the Lord Maior, and the rest of the Commissioners : and then he declared the Kings justice, who albeit the many favours and honors which his Majesty had bestowed upon the Lord of *Sommerſet*, and his nearneſſe to his person by reason of his office; yet he had committed him prisoner to the Dean of *weſtmiuſter* under the custody of *S^r Oliver*, & *S^r John*; and also had committed his Lady : so having last of all demanded again of the prisoner, if he would put himself to be tried by the Country, which he refused; the Court was adjourned untill Munday following at two of the clock in the afternoon.

The second Arraignment of Richard Weston.

ON Munday the 23 *Oct.* 1615. to which day the Court was adjourned by the said Commission; after Proclamation made, the Jury of life and death called the prisoner, *Weston* was set to the Bar, and *M^r Fanshaw* Clerk of the Crown, declared to him that he had been formerly arraigned, and pleaded not guilty : so he demanded of him how he would be tryed? whereunto the prisoner answered, by God and his Country; and thereupon the Jury being sworn, the Indictment being read, as before, *Sir Lawr. Hide* the Queens Attorney, being of the Council for the King, having briefly rehearsed the effect of the Indictment, shewed how that he must necessarily mention others that were guilty of the same fact, wherein if any other man were touched, their cause it was, and not he that touched them.

And therefore *Weston* being but a stranger to *Sir Tho Overbury*, and one who by himself could reap no benefit by his death, it was against all reason he would do it himself, therefore (said he) I must needs open the whole plot; and having first declared the worth and
honesty

honesty of Sir *Tho. Overb.* shewed his familiarity with the Lord of *Rocheſter*, and how he often willed him to forbear the company of the Lady *Effex*, rearming her a vile and baſe woman, which ſtirred up the anger and malice of the Counteſſe againſt him.

And afterwards the King intended for the honour and preferment of Sir *Tho. Overb.* to ſend him upon an Ambaſſage; whereunto he was willing, but was dealt with, and perſwaded by *Rocheſter* to diſobey the Kings direction and counſel, with promiſes that he would bear him out; upon which contempt Sir *Thomas* was committed to the Tower 22 April 1613. Sir *William Wade* heing Lieutenant of the Tower; and the 6. of May following, Sir *William* was removed, and Sir *Jer. Elviſ* put in his place.

And the very next day after, *Weſton* by the procurement of the Counteſſe, was preferred to the ſervice of the Lieutenant, and to be Keeper of Sir *Tho. Overb.* which *Weſton* had been ſervant to Mrs. *Turner*, and the onely agent in conveying letters and meſſages between *Roch.* and the Counteſſe; and he whoſe office ſhould have been to ſave and keep, was now appointed to kill and murder him.

He ſhewed how the very ſame day of his entertainment at the Tower, he was ſent for to the Counteſſe, who promiſed him that if he would give Sir *Thomas* a Water that ſhould be delivered to him, he ſhould be well rewarded; and ſhe bad him not taſte of it himſelf.

And that the ninth or May aforeſaid, the ſaid water was ſecretly ſent from the Counteſſe to *Weſton* by his ſon; and the ſame night *Weſton* meeting the Lieutenant, with Sir *Thomas*'s ſupper in one hand, and the Glaſſe in the other, he demanded of him, Sir, ſhall I give it him now? whereupon the Lieutenant took him aſide, and diſſwaded him ſo far forth, that he

confessed he thanked God on his knees that he had met with him : But Mr. Attorney observed this notwithstanding, that the Lieutenant did let him go away with the poyson ; and albeit he now denyeth he ever gave the poyson, yet said he did deliver it : He confesseth to Mrs. *Turner* he had done it, saying, It made him very sick, and to vomit often, demanding of her his reward ; she answered ; he was not to have it till Sir *Tho.* was dead. Then he shewed, 30. *June* following, a certain powder was sent in a Letter to Sir *Tho.* from *Roch.* periwading him not to fear, though it made him sick, for that should be his reason to move the King for his enlargement. And that the 14 *Septemb.* *Weston* and the Apothecary ministred the Glyster to Sir *Tho.* which gave him 60. stools and vomits, and that he dyed the next day, remembring the botches and blisters on his body being dead. He shewed how *Weston* came to Mrs. *Turner* for his reward, which was deferred till his death ; and that he had received in secret from the Countess by Mrs. *Turner* at several times for his reward 180. l. and that the Apothecary had for his reward 20. l. all which *Weston* had confessed to be true.

Then remembring how ignominiously they buried him, not suffering any to see him for fear he should be digged up again, and without any Coroners inquest that should be found : And thus he ended his speech.

And all this opened and set forth by Mr. Attorney, Mr. *War* onely added thus much, which he desired the Jury to consider, that *Weston* was servant to Mrs. *Turner* when Sir *Tho.* was committed, and then he was entertained and made Keeper to Sir *Tho.* and having dispatched his business, Sir *Tho.* being dead and poysoned, he staves no longer at the Tower, but returns again to his Mrs. *Turner*.

Then

Then the Lord chief Justice exhorted the Jury to take God before their eyes, with equall balance to weigh as well the answer of the prisoner as the proofs and examinations against him, declaring unto them how quietly and freely he had examined him without any menacing, or threatning, or rough usage, which the prisoner confessed; and my Lord, for matter of Law, satisfied the Jury, that albeit in the Indictment it be said to be *Rosacar*, white *Arsnick*, *Mercury sublimare*, yet Jury were not to expect so precise proof in that point, shewing how impossible it were to convict a poysoner, who useth not to take any witnesses to the composing of his *slibber sauces*; wherefore he declares the Law in the like case, as if a man be indicted for murdering a man with a dagger, and it fall out upon evidence to have been done with a sword, or with a Rapier, or with neither, but with a staffe; in this case the instrument skilleth not, so that the Jury finde the murther; and so in the Prisoners case, if they would be satisfied of the poysoning, it skilleth not with what, therefore he required them to attend the proofes.

Then were read first the Examinations of *Lawr. Davis* as at the first Arraignment, then of *Henry Payton*, both servants to Sir *Tho.* then of *Wesston* himself formerly read; the examination of Sir *David Wood* taken the 21. *Octob.* 1615. since the first Arraignment. He saith he had obtained the Kings consent to a suit, for which he was a Petitioner, and that he was crossed by *Roch.* and Sir *Tho. Overb.* that for certain words he had received from Sir *Tho.* he intended to bastinado him; that his suit would have been worth 2200. l. and that *Roch.* would not let it pass unless he might have 1200. l.

That the Lady *Essex* sent for this examinant upon the day that the King and Queen went to *Rocheſt.*

with the Lady *Eliz.* and told him she understood he had received much wrong from Sir *Tho. Overb.* and that he was a Gent. that could revenge himself, and that Sir *Tho.* had much wronged her; and Sir *David* answered, that Sir *Tho.* had refused him the Field; she perswaded him to kill him, and promised him for his reward — and protection from his enemies, which he refused, saying, He would be loth to hazard going to *Tyborn* upon a womans word; but she still perswaded him he might easily do it, as he returned late home from Sir *Charles Wilmots* in his Coach.

*Then were read the Examinations of Sir
Tho. Monson and Mrs. Turner, as
at the first Arraignment.*

NEXT, the Examination of *Weston* before the Lord *Zouch*, Sir *Ralph Winwood*, Sir *Tho. Parry*, and Sir *Foulk Grevill*, at the Dutchy house 21. *Septemb.* 1615. where *Weston* did confess he was preferred to the keeping of Sir *Tho. Overbury* by Mrs. *Turner* upon the means and request of Sir *Tho. Monson* to the Lieutenant, and that she told him he should be well rewarded; and being confronted with a relation in writing which Sir *Fer. Elvis* had made to the King, as touching Sir *Tho. Overbury*, he confessed the same to be true.

*The Examination of the Lieutenant, taken
5. Octob. 1615.*

HE saith, that having conferred with his servants about the time of *Westons* coming to the Tower, he found it to be the very next day after he was made Lieutenant, and had possession of the Tower, and that he had Letters from Sir *Tho. Monson* that *Weston* might be Keeper to Sir *Tho. Overb.* which Letters he hath lost; and Sir *Tho. Monson* told him the chief purpose of *Westons* keeping Sir *Tho. Overb.* was to suffer no Letters or other message to pass to or from, and to that purpose he advised the Lieutenant.

*Westons Examination, 5. of October,
1615.*

HE confesseth, that the next day he was preferred to the Tower, he had the keeping of Sir *Tho. Overb.* and soon after he received the glass by his son secretly from the Countess, and that the Lieutenant told him all the Tarts came likewise from her; and he confesseth, that the Countess willed him to give them to Sir *Tho.* but not to taste of them himself.

Weston examined, 1. Octob. 1615.

Confesseth, that Mrs. *Turn.* appointed him to come to *White-Hall* to the Countess the next day that he was at the Tower, and that he went, and that the Countess did request him to give Sir *Tho. Overb.* what she should deliver him, but not to drink of it himself; she promised to give him a good reward,

ward, and he suspected it was poyson, and he received the glass by his son, and told the Lieutenant of it, who did rebuke him; and he set the Glass in a little study. He confesseth he told Mrs. *Turner* he had given it him, and demanded his reward. That Mr. *James* and Mr. *Rawl.* my Lord of *Somerset's* men came often to know of him what Tarts, Jellies, or Wine Sir *Tho.* would have, and they brought divers times Tarts and Jellies, whereof he did eat.

*The Confession of the Lieutenant to his Majesty,
Your Majesties servant Sir Jer-
vas Elvis.*

After *Weston* was placed in the Tower, he met with me with Sir *Tho.* supper and the glass, and asked me, *Sir shall I give it him now?* wherein I protest unto your Majesty my ignorance, as I would also be glad to protest the same to the world; so I privately conferred with *Weston*, and by this means made him assured unto me, and knew all, but dissuaded; and as *Weston* hath since the death of Sir *Tho.* confessed unto me, that the Glyster was his overthrow, and the Apothecary had 20. l. for administering it.

Here the Lord Chief Justice observed by this question of *Weston* to the Lieutenant, *Sir shall I give it him now?* that it was presently agreed and plotted before what should be done, and that nothing more was doubted on, but the time when it should be done.

The

*The testimony of Lawrence Davis, taken
upon Oath before Cook and
Crew.*

HE affirmeth that *Weston* delivered him a Letter from *Sir Tho. Overb.* to *Roch.* the effect whereof was, that he would do his endeavor in being a means of friendship between *Roch.* and some others, but as touching the Marriage with the Countess of *Essex*, he would never give his consent: and also bringing a Letter from *Roch.* to *Sir Tho. Monson*, he delivered it to *Weston*, and a paper of white powder fell out, which *Roch.* perswaded *Sir Tho. Overb.* to eate, and not to fear, though it made him sick, for that should be a means for his enlargement, so they put the powder into the Letter again: He saith, he saw some part of the powder in *Westons* hand after the death of *Sir Tho. Overbury*.

*The Examination of Simon Weston and Paul
de la Bel as at the first Arraignment,
and Giles Rawlings Esquire, 15.
Octob. 1615.*

SAith, that upon the bruit of poysoning of *Sir Tho. Overb.* being taxed of divers for that he stirred not in the matter, *Sir Tho.* being his kinsman, and means of his preferment, he did of himself prefer a Petition to the King, that the cause might be referred to the Judges of the Law for ordinary course of Justice, rather then to the Lords of the Council, by them to be examined; of which he had a gracious Answer, and saith, that of 14. dayes before the death of *Sir Tho.* he could never be suffered to see him either in his chamber, or out of the window,
which

which *weston* said was the commandment of the Lords and the Lieutenant.

And here the Lord Chief Justice observed what a scandal they put upon his Majesty and the State, that a Gentleman and a Free-man being onely committed upon contempt, should more straightly and closely be kept then a Traytor or Bondslave, so that neither his father, brother, or friend might possibly see him; and to that point Mr. *Overbury*, father to Sir *Tho.* sware, being present in Court, who said that his son being prisoner in the Tower, and himself not being suffered to have access unto him, he found at last that *Roch.* was the man that withstood it.

*The Lieutenants Examination, the 5.
of October.*

SAith, that after the death of Sir *Tho. Overb. weston* told him that he was neglected by the Countess, and demanding his reward, Mrs. *Turner* told him the Countess had no money; but afterwards he confessed he had received some, and should receive more. That Mr. *James* told him, *Somerset* would reward him for the pains he took with Sir *Tho.* He saith the Tarts were sent from the Countess to Sir *Tho.* which looked ill-favouredly, and the Jellies with a little standing would be furred, and thinketh they were poysoned. Also *Weston* told him that the Apothecary had 20. l. for giving the Glyster, and that he was poysoned with the Glyster.

Hence was observed as well by the Court as the Queens Attorney, that *Weston* was not single in his Confession; but whensoever he had confessed any thing in any of his Examinations, it was likewise confirmed by the Examination of others, as the Lieutenant and his son.

The Examination of William Goare, one of the Sheriffes of London.

SAith, *Weston* being in his custody, he often perswaded him to put himself to be tryed by his Country, *Weston* telling him he would first kill himself, and ask God forgiveness afterwards: and said, he hoped they would not make a Net to catch little birds, and let the great ones go.

Then Mr. *War* craving leave of the Court to speak, protested on his conscience he never found a business prosecuted so by degrees, which were the ground of Sir *Tho.* his overthrow; he urged the evidence in the examination of Sir *David VVood*, and shewed the reasons of the malice against him to be, for that he was so great an impediment to affections; then he made the dependency Mrs. *Turner* had to the Lady, and *Weston* to Mrs. *Turne*, and how they all concluded to kill Sir *Tho. Overbury*; the like whereof (he said) our Fathers never saw before us: and he lamented much the place from whence the poyson came should be from the Court, the place (said he) from whence all men expected their safeties and protection. Lastly, he observed the finger of God even in this, that the poyson had scarcely been suspected at all, or enquired after, had it not been for the extraordinary strange things appearing after his death; which was the first onely cause of suspicion and muttering.

The evidence being given, *VWeston* was demanded what he could say for himself, who although he had before confessed all his examinations to be true, yet he seemed to excuse himself in a kinde of ignorance or unawares; he said he received the Glasse, and thought it was not good, but denied the giving of it to Sir *Thomas*: being demanded why he accused one

Franklin

Franklin for delivering to him the said Glasse from the Countess (from whom it was sent) he confessed indeed it was to save his childe: And finally, could say nothing that had any colour of material or substantial point to excuse or argue innocency in him; so the Court referred him to the Jury, who went together, and within short space returned, being agreed upon their verdict, and there at the Bar gave in, that *VVeston* was guilty of the felonies of murdering and poysoning of *Sir Tho. Overbury*; and then the Clark of the Crown demanded of him what he could say for himself, why Judgement should not be pronounced against him according to the Law. To which he answered, he referred himself to my Lord and the Country; and then the Lord Chief Justice before he pronounced sentence of death, spake to this effect, That for the duty of the place he must say somewhat, and that to two several parties; first, to the auditory; secondly, to the prisoner; and that which he spake to the auditory, he divided into four parts, *viz.*

1 The manifestation of the glory of God, and honour of the King.

2 The preventing of other damned crimes of poysoning.

3 Answer to certain objections.

4 That there is no practice of conspiracie in prosecution of the business.

1 For the first, he observed the finger of God in the manifestation, and bringing to light of this matter, having slept two years, being shadowed with Greatness, which cannot overcome the cry of the people; he observed also the providence and goodness of God to put into the hearts of himself, & the rest of the Judges the day of the last Arraigning, when the prisoner stood mute; not to give judgement against him for that time, but deferred it till now; and how in the mean
time

time, it pleased his Majesty out of his gracious care and pity, to send to the prisoner, first the Bishop of London, next the Bishop of Ely, to admonish and persuade him for the saving of his soul, who after each of them had spent two hours with him, and when all the means of man not prevailing with him, it pleased God (when they had left him) to move his heart so, that now he did put himself to be tryed by his Country; by which means, using VVestons own words, he said, the greatest Flies shall not escape, but receive their punishment. For conclusion of this first point, he lastly observed, *Divinum quiddam in vulgi opinione*, for that so many uncertain rumours touching this case, at last proved to be true.

Secondly, he declared how for previntion of this damned crime of poysoning, Justice was the golden mean; and declared his Majesties resolution strictly to execute justice for that Treason, and he used this saying, *Nemo prudens, &c.* and desired God that this president of Overburies might be an example, and terrour against this horrible crime; and therefore it might be called the great Oyer of Poysoning.

Thirdly, he said that at the Arraignment were certain Critiques who had given out, the prisoner should deny his Examinations, and found so much fault for that the Examinations were read, the prisoner standing mute; but for the first, how untrue it was, all the world saw, the prisoner here confessing them all being read and shewed unto him. And for the second, besides that it was exceeding discreet and convenient, the world should receive some satisfaction in a cause of that nature, he cited and shewed what by the Laws of the Land they ought and were bound to do, notwithstanding the greatness of any that might thereby be impeached, of whom he said, although this was *Unicum crimen*, yet it was not *unicus crimen*.

Fourthly,

Fourthly, as touching the supposed practice or conspiracie, he solemnly protested to God he knew none, nor of any semblance or colour thereof; and therefore he much inveighed against the baseness and unworthiness of such as went about so untruly and wickedly to slander the course of Justice; and so he came last of all to that which he had to speak of *Weston* the prisoner.

First, touching the wickedness of the fact, he very seriously exhorted him to an unfeined confession and contrition for the same; declaring unto him how that his confession would be a satisfaction to God and the world, if by faith and true repentance he would lay hold upon the merits of his Saviour. He perswaded him that no vain hope, (which is a witch) should keep him back from giving satisfaction to the world, by discovering the Great ones; assuring him that after this life, as death left him, so judgement should finde him.

And lastly, taking occasion there to remember this poysoning to have been a Popish trick, which he instanced by the example of *Gurnandus di Birlanus* mentioned 22 Ed. 1. *Squire*, that attempted to poyson Queen *Elizabeths* Saddle; *Lopez*, and Mrs. *Turner*; and proceeded to give Judgement, which was, That the prisoner should be carried from thence to the place whence he came, and from thence to *Tiburn*, there to be hanged by the neck till he were dead.

Justice being given, the Lord Chiefe Justice commanded that the prisoner might have convenient respect, and the company of some godly learned men to instruct him for his soules health.

*The Arraignment of Anne Turner a widow, at
the Kings Bench Bar at Westminster,
7. Novem. 1615.*

THe Indictment whereupon *Richard weston* took his tryall, being repeated *verbatim*; she was Indicted for comforting, aiding, and assisting the said *weston* in the poysoning to death of *Sir Thomas Overbury*; to which she pleaded not guilty, putting her self upon God and the Country: whereupon a very sufficient Jury of two Knights, and the rest Esquires and Free-holders of *Middlesex* were sworn and impannelled; for the triall whereof, *Sir Tho. Foulcr* was Fore-man.

The Lord Chiefe Justice told her, that women must be covered in Church, and not when they are Arraigned, and so caused her to put off her Hat; which done, she covered her hair with her handkerchiffe, being before dressed in her hair, and her Hat over it.

Sir Lawr. Hide the Queens Attorney, opened the matter much to the effect as he did at *westons* Arraignment; shewing the wickedness and hainousness of poysoning: he shewed further, there was one *Dr. Forman* dwelling at *Lambeth*, who dyed very suddenly, & a little before his death, desired that he might be buried very deep in the grave, or else (said he) I shal fear you all. To him in his life time often resorted the Countess of *Effex*, and *Mrs Turner*, calling him Father; their cause of comming was, that by the force of Magick he should procure the now Earle of *Somerset* then Viscount *Rocheester* to love her; and *Sir Arthur Mainwaring* to love *Mrs Turner*, by whom (as it was there related) she had three Children: About this business the Countess wrote two Letters, the one
to

to Mrs. *Turner*, the other to Doctor *Forman* as followeth:

The Countesses Letter to Mrs. Turner.

Sweet *Turner*, I am out of all hope of any good in this work; for my Father, Mother, and Brother said I should lye with him; and my Brother *Howard* was here, and said he would not come from this place all this Winter; so that all comfort is gone; and which is worst of all, my Lord hath complained, he hath not lain with me, and I would not suffer him to use me: my Father and Mother are angry, but I had rather die a thousand times over; for besides the sufferings, I shall lose his love if I lye with him; I will never desire to see his face, if my Lord do that unto me: my Lord is very well as ever he was, and so you may see in what a miserable case I am; you must send the party word of all: he sent me word all should be well; but I shall not be so happy as the Lord to love me: as you have taken pains ever for me, so now do all you can; for never so unhappy as now, for I am not able to endure the miseries that are coming on me; but I cannot be happy as long as this man liveth: therefore pray for me, for I have need; but I should be better if I had your company to ease my minde: let him know this ill news; if I can get this done, you shall have as much money as you can demand, and this is fair play.

Your Sister.

Fran. Essex.

Burn this Letter.

*A Letter from the Countess to Doctor
Forman.*

SWEET Father, I must still crave your love, although I hope I have it, & shall deserve it better hereafter; Remember the Galls, for I fear, though I have yet no cause but to be confident in you, yet I desire to have it; as it is remaining yet well, so continue it still, if it be possible; and if you can, you must send me some good fortune, alas I have need of it; keep the Lord still to me, for that I desire; Be careful that you name me not to any body, for we have so many spies, that you must use all your wits, and all little enough, for the world is against me, and the Heavens favour me not, onely happy in your love: I hope you will do me good, and if I be ungrateful, let all mischief come upon me: My Lord is lusty and merry, and drinketh with his men, and all the content he gives me is to abuse me, and use me as dogedly as before. I think I shall never be happy in this world, because he hinders my good, and will ever: So remember (I beg for Gods sake) and get me from this vile place.

Your affectionate loving

Daughter,

FRAN. ESSEX.

Give *Turner* warning of all, but not the Lord, I would not have any thing come out for fear of my
E
Lord

Lord Treasurer, for so they may tell my Father and Mother, and fill their ears full of toys.

There was also shewed in Court certain pictures of a man and woman in copulation made in Lead, as also a mould of Brasse, wherein they were cast: A black Scarf also full of white crosses, which Mrs. *Turner* had in her custody. At the shewing of these and enchanted papers and other pictures in Court, there was heard a great crack from the Scaffolds, which caused a great fear, tumult, and confusion amongst the spectators, and throughout the Hall, every one fearing hurt, as though the Devil had been present, and growing angry to have his workmanship shown by such as were not his own schollers; and this terrour continuing about a quarter of an hour, silence proclaimed, the rest of the cunning tricks were likewise shewed. Doctor *Formans* wife being Administratrix of her husband, found Letters in packets, by which much was discovered; she was in Court, and deposed, that Mrs. *Turner* came to her house immediately after the death of her husband, and did demand certain pictures which were in her husbands study, namely one picture in wax, very sumptuously appareled in silk and sattins, as also one other picture sitting in form of a naked woman, spreading and laying forth her hair in a Looking-glass, which Mrs. *Turner* did confidently affirm to be in a box, and that she knew in what part of the study they were.

Mrs. *Forman* further deposeth, that Mrs. *Turner* and her husband would be sometimes three or four hours locked up in his study together: She did depose further, her husband had a Ring would open like a Watch.

There

There was also shewed a Note in Court made by Doctor *Forman*, and written in parchment, signifying what Ladies loved what Lords in the Court, but the Lord Chief Justice would not suffer it to be read in open Court.

Mrs. *Turner* sent *Margaret* her Maid to Mrs. *Forman*, and wished that all such Letters and papers as did concern the Earle of *Somerset* and the Countess of *Essex* should be burned, or any other great personages, telling her that the Counsellors Warrant should come to search the study; and that all his goods might be seised; whereupon she and her Maid *Margaret*, with the consent of Mrs. *Forman*, burnt divers Letters and papers, but that she kept some without their privie.

There were also enchantments shewed in Court written in parchment, wherein were contained all the names of the blessed Trinity mentioned in the Scriptures; And in another Parchment Cross B. Cross C. Cross D. Cross E. in a third likewise in parchment were written all the names of the holy Trinity, as also a figure in which was written this word *Christus*, and upon the parchment was fastned a little piece of the skin of a man.

In some of these parchments the Devils had particular names, who were conjured to torment the Lord *Somerset* and Sir *Arthur Manwaring*, if their loves should not continue, the one to the Countess, the other to Mrs. *Turner*; Mrs. *Turner* also confessed, that Doctor *Savorius* was used in succession after *Forman*, and practised many forceries upon the Earle of *Essex* his person.

Mrs. *Turner* being almost close prisoner in one of the Sheriffs houses in *London*, before she was brought to the Barr, knew not that *Weston* was executed; but by the proceedings having understanding thereof, and

hearing divers examinations read, it so much dejected her, that in a manner she spake nothing for her self, also examinations and witnesses *Viva voce* that were produced at *Westons* arraignment, and divers others were read again, as the Examinations of *Edward Paine*, *Jo. Wright*, *Robert Freeman*, *Symcock*, *Rawlings*, *Payton*, *Williams*: one of these Examinations gave in evidence, that one *Franklyn* being an Apothecary and Drugster, was the provider of all the poysons given to *Sir Tho. Overbury*.

A Chyrurgeon there deposed, that he cured *Franklyn* of the Pox, and that at several times he demanded of his Chyrurgion what was the strongest poyson. The Chyrurgeon demanded what he would do with it, *Franklyn* replies, Nothing but for his experience, and to try conclusions.

Another Examination of one *Merfer* who had conference with the said *Franklyn*, calling him Cousen, who demanded of the examinant, What news? he answered, Ill newes: I am sorry that my old Lord and Masters son is found insufficient, and not able to content the Lady. *Franklyn* replies, I have a hand in that business, I have a great friend of my Lady *Effex*, she allows me 2. s. 6. d. a day for my Boat-hire, and 10. s. a week for my dyet, I could have any money if I would. *Merfer* replies, but Cousin, how can God bless you in this business? *Franklyn* answered, Let them talk of God that have to do with him: my Lord of *Somerset* and the Countess will bear me out in any thing I do; if you have any suit wherein you may do your self any good, and I may gain by it, I will warrant you I will get it.

Francis deposeth, that *Franklyn* married his sister, and that he thinketh in his conscience she was poysoned; upon some discontentment he heard him say,
He

he would not be hanged for never a whore or quean of them all. The Lord Chief Justice made a speech upon divers examinations there read, that the Earl of *Somerset* gave directions, that of the powder he sent to *Sir Thomas Overbury* that which should be left should be brought back again, his pretext was that it should make him sick, which should be the ground to make the King grant his liberty, saying further, it would do him good; and he had Tarts and Jellies sent him likewise by the Countess, with expresse commandment that none must eate of them but *Sir Tho. Overb.* saying, they would do him no harm.

At another time the Countess sent Tarts, Jellies, and VVine, with directions that those which had been formerly sent, should be brought back again, and those last brought should be given him at supper, and then all should be well; but directions given that neither the Lieutenant nor his wife might eate of them, but they might drink of the wine, for in the Tarts and Jellies there might be letters, but in the wine none; and afterwards it was openly related and proved by divers examinations, that those words *Letters* were private tokens between the Countess and the Lieutenant, and *Weston* to give notice what things were poysoned, and what not.

In the Examination that was of *Weston*, it was related, that Mr. *James* told him that the Earl his Master would pay him for his pains taken with *Sir Tho. Overb.* Then the Lord Chief Justice gave in charge to the Jury concerning the evidence they had formerly told them, and heard that *Weston* at his Examination confessed all he had said formerly was true.

He further related what a great vexation and grief it was to the King, that *Somerset* onely by making use of his favours and love, so foul a fact was done, as
first

first to be the occasion to put Sir *Tho. Overb.* to imployments for the Embassage of *Russia*. 2. To make him refuse them, and to give right cause for his commitment. 3. To bear him in hand that he would work his liberty, but still aggravated and laboured the contrary, and gave directions to the Lieutenant to look surely to him, and to keep him close prisoner, and that he should send to none of his friends, or they to him, urging great matters against him;

Sir *Tho. Monson* was often employed to give directions to the Lieutenant therein, a most barbarous course to be so dealt withall onely for a contempt; concluding that Sir *Tho. Overb.* was a close prisoner to all his friends, but open to all his enemies; such as *Somerset* would have, or send to him.

The Lord Chief Justice told Mrs. *Turner* she had the seven deadly sins, *viz.* a Whore, a Bawd, a Sorcerer, a Murtherer, a Witch, a Papist, a Felone, the daughter of the Devil: *Forman* wishing her to repent, and to become the servant of Jesus Christ, and to pray him to cast out those seven Devils. She desires the Lord Chief to be good to her, saying, she was ever brought up with the Countess of *Somerset*, and had been of a long time her servant, and knew not there was poyson in any of those things sent to Sir *Tho. Overb.* then the Jury went forth, and not long after returned, finding her guilty, who being asked what she could say for her self why judgement should not be pronounced against her, she onely desired favour, but could not speak any thing for weeping.

Then Judge *Crook* made another grave Speech, exhorting her to repentance, and to prepare her self ready for death, and that the little time which should be assigned her to live, she should not spend it either
in

in labour or imagination to get her life, for that hope was but a VVitch; upon conclusion of which Speech he gave Judgement, and told her she had a very honorable Tryall by such men as he had not seen in his time for one of her rank and quality, and so was delivered to the Sheriff.

Upon the wednesday following she was brought from the Sheriffs in a Coach to *Newgate*, and was there put into a Cart, and casting money often amongst the people as she went, she was carried to *Tyborn*, where she was executed, and whither many men and women of fashion came in Coaches to see her dye, to whom she made a speech, desiring them not to rejoyce at her fall, but to take example by her: she exhorted them to serve God, and abandon ill company, and all other sins, relating her breeding with the Countess of *Somerset*, having had no other means to maintain her self and her children, but what came from the Countess; And said further, that when her hand was once in this business, she knew the revealing of it would be her overthrow; by which, with other like speeches, and great penitence there shewed, she moved the Spectators to great pitty and grief for her.

The proceedings against Sir *Jervas Elvis*, Knight, Lieutenant of the Tower, at his Arraignment at *Guild-Hall*, the 16. of *Novemb.* 1615.

THe form of the Indictment was, the malicious aiding, comforting, and abetting of *Weston* in the poysoning and murdering of Sir *Tho. Overb.* whereupon it was laid against him as followeth.

First, when *Weston* received the Viall of poyson of two inches long, to give Sir *Tho.* he having the Glass in the one hand, and the broth for Sir *Tho.* in the other, meeting the Lieutenant, asking him this, *Sir shall I give it him now?* The Lieutenant reproved him, yet that night he gave it him in his broth, *Ergo*, the Lieutenant knew of the practise and poysoning of Sir *Tho. Overb.* *Et qui non propulsat injuriam cum possit eam inferre, Cicero.*

After this was known to be poyson, yet he kept *Weston* still, he favoured, countenanced, and graced him, and one time sent him a cup of Sack, and bad his man tell him he loved him as well as ever he did; all this while he paid him no wages, and as soon as Sir *Thomas Overbury* dyed, *Weston* was removed.

The Countess writ a Letter to the Lieutenant, with the Letter she sent poysoned Tarts to *Overbury*, and Wine to the Lieutenants wife, and bad him give the Tarts to *Overbury*, for there were Letters in them; but his wife and children might drink the Wine, for she was sure there were no Letters in it.

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The Earle of *Northampton* writ a Letter to the Lieutenant concerning the imprisonment of *Overbury*; the said Earle writ three Letters to *Rocheſter* containing theſe words :

Sweet Lord , think not I finde pain in that which gives me ſweeteſt pleaſure , which is any thing which falls from your Pen. Three things concur to my exceeding joy in your worthy Letters; proof of your love, comfort of your words, and judgement in your writing : you may believe the words of him that will rather dye then flatter you , my heart is full of the love of you ; your Characters are no pain for me to peruſe , being as well acquainted with your hand, as mine own : the pain is no more then the cracking of a Nut for the ſweet kernel, or my Neece's pain in the ſilver-dropping ſtreams of your Pen. (There the Lord Chief Juſtice left off reading for the baudiſhneſs of it ; then after in the Letter followed:) I ſpent two hours yeſterday in prompting the Lieutenant with cautions and conſiderations; obſerving with whom he is to deal , that he might the better act his part for the adventure in which he dealeth.

Henry Northampton.

Another Letter to Rocheſter.

Sweet Lord , I cannot deliver unto you with what caution and conſideration, &c. and the Lieutenant looking to his buſineſs , which concerns me more then Text affords , that marching in his affairs , I ſhall hold him diſcreet, and love him better whilſt I live for this his concluſion , for this Negro
can

can no more change his skin, then the *Leopard* his spots.

Hen. Northampton.

Another Letter to Rochester.

Sweet Lord, *Overbury* being viewed, there was found in his arm an Issue, and on his belly twelve kernels like to break to issue, each as broad as three pence, as big as a small button; an Issue in his back with a tawny plaister on it, this was strange and ugly, he stank intolerably, insomuch that he was cast into a Coffin with a loose sheet over him: God is gracious in cutting off such ill instruments from the factious crew; if he had come forth, they would have made use of him. Thus sweet Lord wishing you all increase of happiness and honour, I end

Your Lordships

more then any mans,

Hen. Northampton.

The Lieutenant writ a Letter to *Northampton*, certifying him, that he undertook *Sir Tho. Overbury* according to his Instructions; that as soon as he came to the place, *Sir Thomas* protested his innocency upon the Bible, and then (quoth he) he asked me what they meant to do with him? I answered, they mean to refine you, that your pureness may appear the better; after I walked with him in his Chamber, and advised him to give way to the match between *Rochester* and the Countess, but then he grew hot against your Lordship, and the Countess of *Suffolk*, saying if he

he were the Countess of *Suffolks* prisoner (as he thought he was) then (said he) let her know that I care as little to dye, as she to be cruel. The Countess I finde to be joyned with you in this plot, though the Chamberlain knows not of it, nor any one else: but *Rochesters* part I shall most fear untill I see the event to be clearly conveyed: and so he concluded his Letter.

The Answer of Sir Jervas Elvis to the points proposed.

MY Lord, before I answer the matter of charge against me, let me remember your Lordship of one speech I learned from your mouth, I have heard you speak it at the Councel Table, and at the Assizes in the Country; that when a prisoner stands at the Bar for his life comfortless, allowed no counsel, but strong counsel against him, perchance affrighted with the fear of death, his wife and his children to be cast out of doors, and made to seek their bread, you have alwayes pitied the cause of such an one, you have protested you had rather hang in hell for mercy to such an one, then for judgement.

My Lord, you have not observed your own rule in my cause, you have paraphrased upon every examination, you have aggravated every evidence, and applied it to me; so that I stand clearly condemned, before I be found guilty: if I were so vile a man as your Lordship conceives me, I were unworthy of any favour, but I hope your Lordship shall not finde it.

So I will deny nothing that hath evidence of truth against me; I will not tell a lie to save my life: and beseech your Lordship so to conceive of me, move your charity towards me.

Then

Then desired he the Court, that the heads of the Accusations might be collected by the Councel of the King, which were the same which were mentioned before, to which he severally answereth:

To the first, *Shall I give it him now?* he answered, That when *weston* asked him the question, he saw no poyson in his hand and therefore (said he) in *westons* and my Examinations the question was, *Shall I give it him now?* not, *Shall I give him this now?* for there is a great difference between *how*, and *id*, in matters of prevention.

But further, when *weston* had told me that it was poyson which he meant to give, I reprov'd him, and beat him down with Gods Judgements: nay I humbled him so, that he thanked God and me on his knees, and told me that he and his had cause to blesse God for me, for that I with-held him from doing that act; and if you call this comforting and abetting, to terrifie a man for his sins, and to make him confess his faults to God, and to abhor and detest the act, then was I an abettor, and comforter of *weston*.

To the second, after I had thus terrified him with Gods Judgements, and saw him cast down for his offence, I could do him no better office then to raise him up, who was thus cast down, and therefore favoured him; I shewed him kindness, I drank to him, to the intent I might encourage the intentions of his minde, which I found then in abhorring the fact; and for that I gave him no wages, it is true; I took him from the commendations of my Lord of *Northampton*, and Sir *Tho. Monson*, whom I took to be my friends, and thought they would commend no man to be a Keeper, which might endamage me.

To the third, I never knew any other meaning of the Countesses words in her Letters, but the bare literal meaning; and sure (quoth he) after I had received

ceived the Tarts, and they stood a while in my Kitchen, saw them so black and foul, and of such strange colours, that I did cause my Cook to throw them away and to make other Tarts for him.

To the fourth he saith, the Earle of *Northampton*s Letters to him, was not any thing touching the poisoning of Sir *Thomas Overbury*, but for a close restraint, to the end that *Overbury* might agree to their purposes concerning the marriage to be had between *Rochester* and the Countess: if the Earle of *Northampton* had any plot to take away his life, I was not of his counsel, nor had knowledge therein.

To the fifth, it is said, I received him according to my instructions; I meant no other thing then I had delivered before, which was concerning the closeness of his imprisonment; but being asked what he meant by these words, *Rochesters part I shall greatly fear, untill I see the event to be clearly carried*: In this he staggered and wavered much, and gave his answer, It was long since I writ this Letter, and for the particular circumstance that induced me to this speech, I cannot now call to memory: but sure I am, (knowing my self to be innocent) I satisfie my remembrance, so that I meant nothing concerning the taking away of his life: but because I was a stranger to *Rochester*, and had heard, and known of that great league that was between them, I might well think, suspect, and fear whether he would alwayes continue those projects for his restraint. These were the answers he made to his accusations: and after he had made many protestations betwixt God and his soul of innocency, in the malicious plotting and abetting of *Overburys* death, he appealed himself to the Jury, and said,

I will prove unto you by many infallible and unanswerable reasons, that I could not be aider and complotter

plotter with *weston* in this poysoning : first, *I* made a free and voluntary discovery of it my self, *I* was not compelled ; will any man imagine *I* would discover a thing wherein *I* am not able to clear my self ? Nature is more kinde then to be its own accuser.

Besides, that my cleareness might more appear and remain in the world without any suspition, *I* proceeded and accused the murtherer *weston*. It had been a senselesse thing in me (if *I* had not thought my self clear) to have accused him, who might have done as much for me. Nay *weston* himself proved me to be an honest man before the Chancellour of the Exchequer, for he confessed to him and others being present, that he thought the Lieutenant knew not of the poyson ; and in his Examination before the Lord Chief Justice, and Serjeant *Crew*, being asked the meaning of those words (*Shall I give it him now ?*) he answered, That he thought that those which had set him on work, had acquainted the Lieutenant with their plot.

And also *I* was so confident in mine own innocency, that *I* told my Lord Chief Justice, and my Lord *Zouch*, that the way to make *weston* confess, and to discover all, was by fair and gentle intreaty of him ; and so by this means they might search to the very bottome of his heart : in this the Lord Chief Justice witnessed with him.

And after Sir *Thomas* was dead, *weston* and Mrs. *Turner* were sent to me to know whether *I* had any inkling of the death of Sir *Thomas* : what need they have made this question, if *I* had known any thing thereof ?

Also that which *I* do know concerning the poysoning of Sir *Thomas*, was after his death by the relation of *weston*; and *I* am here indicted as accessary before

fore the fact, when I knew nothing till after the fact.

After that he had confirmed these reasons by sundry proofs and witnesses, he went further in his own defence. If I be in the plot, my Lord Treasurer is, I have his Letter to shew in it, he called me to his lodging, and said, The plots you know them as well as I. The plots were onely to repair her honor: my wife hath the Letters from the Lord Treasurer and *Munson*: for these plots I will run willingly to my death, if circumstances be knit with any manner of fact.

He proceeded further, and told the Lord Chief Justice, that he spake not this to justifie himself, so that no blemish or stain might cleave unto him, for (said he) this visitation is sent me from God, and whether I live or dye, it is the happiest affliction to my soul that I ever received: I have laid open my whole heart from bloodguiltiness, I have not repented me other then for errors of my judgement in not detecting what I suspected, and yet I ask God forgiveness for less sins, but of this I know no other then the gross error of my judgement in not preventing it, when I saw such intendment and imagination against him.

Then he put my Lord Chief Justice this question: If one that knoweth not of any plot to poyson a man, but onely suspecteth, is no actor or contriver himself, onely imagineth such a thing, whether such a one be accessary to the Murther? for the words of the Indictment are *abetting and comforting with malice*. Now if there be any man that charges me expressly or in direct terms that I was an abetter; or if the Court shall think fit in this case that I have put, that such a concealing without malice is an abetting, I refuse not to dye; I am guilty: this was the summe of his speech.

Then

Then the Lord Chief Justice replied, That to his knowledge he spake no more concerning the evidence then he could in conscience justifie, which was onely to explain the evidence, and not wresting any thing in prejudice of his life.

But further, he told him, that two dayes before Sir *Thomas* dyed, you wished his man to bring in his best Sute of hangings to hang his Chamber, which you knew were your Fees: after he told him that his accusation of the Lord Treasurer was very malicious; for in all the Examinations he had taken, in all the exact search he could make for the finding out of the truth; he saw not that honourable Gentleman any way touched. In conclusion, he told him, It is not your deep protestations, and your appealing to God and his Throne, that can sway a jury from their evidence, which is not answered unto.

But to leave you without excuse, and to make the matter as clear as may be; here is the Confession of *Franklin*, which he then drew out of his bosome, saying, This poor man not knowing *S^r Ferris* should come to his Triall, this morning he came unto me at five of the clock, and told me that he was much troubled in his conscience, and could not rest all night, untill he made his Confession, and it is such an one (these were his words) as the eye of *England* never saw, nor the ear of Christendome ever heard.

The Confession of James Franklin, 16. Novem.

1615.

Mistress Turner came to me from the Countess, and wished me from her to get the strongest poyson I could for Sr Th. Overbury; accordingly I brought seven sorts; *Aqua-fortis*, *White-Arsnick*, *Mercury*, *Great-spiders*, *Powder of Diamonds*, *Lapis Costitus*, *Cantarides*; all these were given to Sir Tho. at several times: and further confesseth, that the Lieutenant knew of these poysons; for that appeared (saide he) by many Letters which he writ to the Countess of *Essex*, which I saw, and thereby knew that he knew of that matter; one of them I read for the Countess, because she could not read it her self, in which the Lieutenant used this speech: *Madam*, This Scab is like the Fox, the more he is cursed, the better he fareth: and other speeches.

Sir Tho. never eat white Salt, but there was *White-Arsnick* put into it; once he desired Pigge, and Mrs. Turner put into it *Lapis Costitus*; the white powder that was sent Sir Thomas in a Letter, he knew to be *White-Arsnick*, a very deadly poyson.

At another time he had two Partridges sent him from the Court, and water and onyons being the sawce, Mrs. Turner instead of Pepper put in *Cantarides*, so that there was scarce any thing that he did eat but there was some poyson in it; for these poysons the Countess sent me rewards, she sent me gold many times by Mrs. Turner.

She afterward writ unto me to buy her more poysons: I went to her, and told her, I was weary of it: I besought her upon my knees, that she would use

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me no more in these matters; but she importuned me, bid me go, and inticed me with fair speeches and rewards; so she overcame me, and did bewitch me.

The cause of this poysoning was, as the Countess told me, because Sir *Thomas* would pry so far into the state, as he would put them down: he did also say, that the toothless Maid trusty *Margaret* was acquainted with the poyson: so was Mrs. *Turners* man *Stephen*, so also Mrs. *Horn*, the Countesses own hand.

He saith, on the marriage of the Countess with *Somerset*; she sent him twenty pound by Mrs. *Turner*, and he was to have been paid by the Countesse two hundred pound *per. an.* during his life.

That he was urged and haunted two hundred severall times at the least by the Countesse to do it against his conscience: he saith, she was able to bewitch any man; and then he wrought the love between *Rochester* and her, and that he had twelve severall Letters from her to prosecute it, and was to have two hundred pound, to continue their love till the Marriage.

These are all the materials in *Franklins* Confession; to this Sir *Ferris* knew not what to answer, or to make of his own Letters.

Then presently the Jury departed from the Bar, and presently after returned, and found him guilty, and the Lord Chief Justice gave judgement, and he was executed accordingly in manner following.

Sir Jervas his Confession.

ON Munday the 20. of *Novem.* 1615. he was executed upon Tower hill, upon a Gibbet there set up of purpose about six of the clock in the morning (he being arraigned in a black Suit and Jerkin with hanging sleeves, having on his head a crimson fatten Cap, from the top downwards, and round about laced, under that a white linnen Cap, with a border, and over that a black Hat with a broad Ribbond, and a ruffe Band thick couched with a lace, and a pair of skie-coloured silk stockings, and a pair of three soaled shooes.)

He came on foot from Sheriffe *Goars* house to the Gibbet, between Dr. *Whiting*, and Dr. *Felton*, two of his Majesties Chaplains, and comming to the Ladders foot; he talked a word or two to the Executioner; then he went up the Ladder four or five steps, the Executioner sitting over his head upon the top the of the Gibbet; Sir *Jervis* finding the Ladder to stand too upright, for his ease, spake to have it amended; which forthwith he comming down was done, being fastned in the ground, and then he went up again six steps, where after a while sitting, uttered to this, or the like effect.

NOble, Right worshipful, and others: I am here come as well to shew, explain, and unfold that which passed at the time of my Arraignment, to so many of you as were present; as also to shew that there I perceived I had lost the good opinion of many in standing so long upon mine innoçencie, which was my fault I confels, hoping

ping now to recover the same, and your good charitable opinions of me; which fault *I* then saw not, being blinded with my own error, which made me account it no sin.

But since my condemnation, by the means and help of these two Gentlemen here present (the Doctors) *I* was perswaded of the greatness of my sin, and that it was so much the greater, by how much the more *I* did conceal it: which by Gods mercy *I* perceiving, consulted not with flesh and blood, but thought it in this my condemnation the best way for my soules health to reveal to the Omnipotent and All-seeing God, the most secret and inward intentions and thoughts of my deceitfull heart; not once respecting the praises or dispraises of the world, which *I* regard not at all.

It may be some will say, That this place was most unfit for my execution, appointed to terrifie and daunt me so much the more; but (alas!) *I* fear not death, place, nor any such like thing; for *I* account it the King and Councils speciall favour, that *I* dye here, for that *J* requesting the same it was granted, whereby *J* see now this Tower, late wherein *J* should have been called to State business, and still might, if *J* had performed a more loyal service to my King and Country then *J* did.

Next, in that *J* was not appointed to Tyburn, a place of more publique reproach then now *J* am brought to, being worthy to die by due and lawfull Justice, in prosecuting this bloody enormous act against a kind Gentleman, who deserved no ill at my hands, nor any mans else, for ought *J* know.

But were it *J* had not trusted him who was a most perfidious wretch, *J* had not fallen into this shame, which may warn all here present to take heed whom they trust

trust in a bad matter ; and to admonish you that are trusted never to break honest and just fidelity.

I was by divers tricks drawn to this action; which I received from the Earle of *Northampton*, and Sir *Thomas Monson*, and none other ; but had I remembered the 115. verse of the 119. Psalm, and said with the holy Prophet, *Away from me ye wicked, for I will keep the commandments of my God* : then had I refused such like tricks, alas ! now too late, there was my fault that I did not refuse them, and cast my self upon Gods providence without any dependence on man, though never so honourable : Was ever any deceived that did trust in God ? there was never any : Therefore I admonish you all, let none how honourable soever they be, or the King himself, move you to any thing not agreeable to Gods word; do it not, reject it; for that was my fault, that I had not at the first opened this plot to his Majesty, who no doubt would most justly and thoroughly have punished the same.

You Noble, Worshipful, and others ; let my example teach you thus much, That you prophane not the holy Sabbaths of the Lord, nor his good creatures, nor that you turn (by a lascivious course) dayes into nights, and nights into dayes, as I have done; and that in serving God, you must not only read the Scriptures, but joyn practice therewith ; for what good will the same effect, if the heart be foul, bloody, and impure ? some here knew my forwardness therein, but I pretend not innocencie that way, but cast it off, and confess that of this great Assembly I am the most wretched sinner.

You expect speeches from me of some concealed matters, and upon some of my speeches used at the closing up of my Arraignment ; but I stand here *loco peccato*;

teris, non oratoris : yet J will shew you that J have opened to my Lord Chrief Justice since my Arraignment, that with the utmost of my power J was able to verifie, upon which J took the body and blood of Jesus Christ, and in further testimony, J will now seal it with my last and dearest breath.

Nobles, and others, to see your faces it rejoyceth me, whereby you manifest your loves in granting my request to be eye-witnesses of my death : J see a number of my friends here, (pointing as he spake) who out of their loves J intreated to beseech God to strengthen me in death, though ignominious to some, yet to me a bitter cup mingled with Gods mercies, a special favor this way to call me home; whereas he might have taken away my life by shooting the Bridge, or some fall, or otherwise; and then this unrepented sin, which J accounted no sin (such was my blindness) had been damnation to me; for God is just, and the unrepented sinner shall have no salvation.

There is none of you here present that knoweth how or in what sort he shall dye, it may be in his bed, it may be otherwise (God knows) J protest before you all, J never came over this hill in the chiefeft. of all my prosperity with more joy then now J have at this present; for now J know J shall behold the glorious face and sight of my Creator.

Take heed, let my ensample incite you to serve God truly and uprightly, lest a shameful death overtake you, as it hath me, who am unworthy of my Parents care in bringing me up.

It may be some will say, J have a flinty heart, because J shed no tears; my heart is flesh as others be, and J am as faint-hearted to look death in the face as any other; because my use hath not been to shed tears, J cannot

not now easily, except it be for the losse of some dear freind; albeit now my heart beginneth to melt within me being wounded (with that the tears stood in his eyes) to see the faces of some here present, whom I most earnestly love, and now must depart from with shame, though worldly regard I respect not, for well Mr. Sheriffe knows, that (to shame this my sinful flesh the more) I wisht if it had him pleased, to have been brought thorow the City, to have warned all the spectators how they should not escape without Judgment for blood, for God is just.

I had almost forgotten to shew you a most strange thing which God brought to my memory the last night, which is this: I confess I have been a great Gamester, and have played and wasted many great summes of money which exhausted a great part of my means, which I perceiving, vowed seriously, and not sleightly or unadvisedly, to the Lord in my vow and prayers, *Lord, let me be hanged if ever I play any more!* which not long after is justly come upon me, whereof ye are all eye-witnesses, for a thousand times since I have broke this my vow.

Then he espied one Sir *Maxamilian Dalyson* standing near to the Gibbet on horse-back, and said to him, You know Sir *Maxamilian* what gaming we have had, and how we have turned dayes into nights, and nights into dayes: I pray you in time to leave it off, and dishonor God no more in breaking his Sabbath, for he hath alwayes enough to punish, as you now see me, who little thought thus to dye.

To which Sir *Maxamilian* answered him, Sir *Fervas*, I am much grieved for you, and shall never forget what you have said; whereunto he said, Look to it, do then.

Further he continued his Speech, Let no man boast of the abilities and gifts of Nature which God giveth him, for therein I displeased God, being over-much transported with the pride of my Pen, which obsequious Quill of mine procured my just overthrow. Upon the knitting up of my Lord Chief Justices Speech at my Arraignment, by reason of two or three passages at the bottom of my Letter, subscribed with my own hand, which I utterly had forgotten, because I felt not my sin, (which I heard;) I saw no other but the finger of God would thus point to this Fact: By this means, I do protest before God, and confess before you all, that I was so overtaken with this bloody Fact, that for satisfaction of the same, I willingly yeelded my dearest blood, to the shame of this my wretched Carcass, not being so much grieved for the same, as for others; that I wish I had hang'd in Chaines perpetually, so that I had at first revealed this hainous plot.

Then should I have saved the lives of some already dead, some in the Tower, and some in the City, some over Seas; so should I have prevented many from being Widdows, some from being fatherless, and some from being childless, among whom my own wife for one, and eight Fatherless children of mine, which I now leave behind me; and God knows how many are guilty of this Fact, and when it will be ended.

The Lord Chief Justice upon closing up of my speeches at my Arraignment, said, I was an *Anabaptist*: I would I were as clear from all other sins, as from that, for I alwayes detested that condition.

As for my wife, some said she is a *Papist*; True it is, she came so short of a sincere *Protestant*. I mean

in that respect, that when she is amongst *Papists*, she cannot well forbear them.

Then he spake to the Sheriff, saying, If it may be permitted without offence, I have somewhat to say, and that is this; Is it lawful for any one here to demand of me any questions? to which the Sheriff answered, It is not lawfull, wherefore, good Sir *Fervas*, quoth he, forbear. Sir *Fervas* said thereunto, (doubling his words) it is enough, it is enough; I have, quoth he, one that holdeth my cloak, may I bestow somewhat on him? The Sheriff answered, That you may Sir; whereupon, he called the young man unto him by his name, who stood waiting at the Ladders foot, and gave him out of his pocket some pieces of gold or silver, and said, Here, take this, spend it; which he with bitter tears thankfully accepted.

Doctor *Felton* and Doctor *Whiting* strained courtesie which of them should begin a publike Prayer for this parties condition; one of them willed the other, but at last Doctor *Whiting* said, If you Sir *Fervas* can perform it your self, you of all men are fittest to do it, with efficacy both of soul and spirit; whereupon he said, I shall do my best then; but my hearers, I crave your charitable constructions, if with half words, and imperfect speeches, I chatter like a Crane.

His



His Prayer.

O Eternall, Omnipotent, and Omniscent God, the Creator of Heaven and Earth, and of me a most miserable and horrible wretch, by reason of my unmeasurable sinnes and transgressions, whereof I am wholly guilty; take pittie of me, that have so many ponderous sinnes; that without thy speciall favour and mercy, they will be ready to press me into perpetuall destruction; thy full and free pardon in Jesus Christ I humbly crave, with this assurance, that immediately my soule shall be translated hence, into those inestimable joyes which the heart of man is unable to conceive, the tongue to utter, the eare to hear: Then Lord hear the petition of me a most miserable wretch, according to thy promise made unto the repentant sinner: my sinnes yet unknown, and unrepented of, which are my secret sinnes, Lord call not to accompt: disburthen me, O Lord, of my unknown sins, I desire to give a true sigh for them all, my sins of youth, and riper years,

years, O Lord, pardon; thou, O Lord, knowest how many they are; let the misty clouds of all my sinnes whatsoever be scattered by the bright beams of thy merits: Be merciful to me in Christ Jesus, that these weak poor prayers may be available in thy sight; this comfort yet I have, that I am thine; for, were I not thine, then out of the roots of me could not the buds of repentance appear, by which I know thou lovest me; it is not I, but thou, O Lord, hast drawn me to thee, for thine own mercies sake, In which thy mercies and thy promises made to the true repentant sinner, once again I rely: for if thou killest me by this or any other ignominious death, yet will I trust in thee. I crave thy assistance; Protect my soul from that great Adversary of mine, I mean Satan, who with pale death and the infirmities of flesh, do band their balls together, then especially at the last gasp; in which great conflict, Lord strengthen me, that they may not overcome, but be overcome.

Amen.

This

This Prayer being ended, he asked if he might not pray privately: The Doctors answered, Yea; then made he a short Prayer to himself with his face covered; and after he uncovered it, and said, Now I have prayed, now must I pay, I mean do the last office to Justice: with that Doctor *Whiting* said, Sir *Fervas*, you may stand one step lower upon the Ladder; to whom the Sheriff answered, It is better for him Mr. Doctor to be where he is; Stay, quoth the Doctor to the Executioner, for he hath given a watch-word, he is in private prayer again; Yea, quoth he, for he hath given me a watch-word when I shall perform my office to him.

He uncovered his face after his second short prayer: And first took his leave of all the assembly, saying with a cheerfull voyce and countenance, I pray you pray for me, who shall never more behold your faces; then he said with great fervency of spirit, Lord I desire at thy hands this bitter Cup of death, as the Patient receives a bitter Potion, not once demanding what is in the Cup, but takes and drinks it off, be it never so bitter.

As soon as he had then said audibly, *Lord Jesus receive my soule*, which belike was the Executioners watch-word, he turn'd him off the Ladder, and the Executioners man catching at one of his feet, and his own man by the other, they suddenly weighed his life; where hanging a small distance of time, his body not once stirred, onely his hands moved a little, being tyed with a black silk Ribbon, which a little before he had reached to the Executioner, putting up his hands to him for that purpose; all which being ended, both Corps and high Gibbet were from thence conveyed.

The



The Proceedings against *James Franckling* at his Arraignment at the Kings Bench the 27. of November, *An. Dom. 1615.*

After he had put himself for his Tryal upon the Country, a Jury of Esquires and Gentlemen were impannilled to pass upon his life there; then *westons* Indictment was read, and *Francklin* accused as accessary to the poysoning of *Sir Thomas Overbury*, and then his Examination formerly taken in these words.

James Francklins Confession.

HE confesseth, That in a house near *Doctors Commons* Mistriss *Turner* did first come unto him about the poysoning of *Sir Thomas Overbury*, and prayed him to provide that which should not kill a man presently, but lie in his body a certain time, wherewith he might languish away by little and little; at the same time she gave him four Angels, wherewith he bought a water called *Aqua fortis*, and sent it to Mistriss *Turner*, who to try the operation thereof

thereof, gave it to a Cat, wherewith the Cat languished, crying pitifully for two days, and so dyed.

Afterwards Mistrifs Turner sent for *Francklin* to come to the Countess, who told him that *Aqua fortis* was too violent a Water: But what think you, quoth she, of White *Arsnick*? He told her, that was too violent: What say you, quoth she, to Powder of Diamonds? He answered, I know not the Nature of that; She said then, he was a Fool, and gave him pieces of Gold, and bid him buy some of that Powder for her: *Francklin* demanded of the Countess what was her Reason to poyson Sir *Tho. Overbury*; she told him, He would pry so far into their estate, that he would overthrow them all.

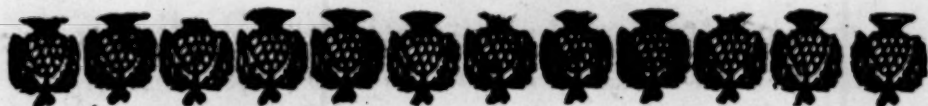
A little before Sir *Tho. Overburys* death the Countess sent for *Francklin*, and shewed him a Letter sent from the Lord of *Rocheſter*, wherein he read these words, *I marvel at these delays, that the business is not yet dispatched*; whereby *Francklin* thinketh in his Conscience was meant the poysoning of Sir *Thomas Overbury*. And in another Letter from the Lord of *Rocheſter* was written, That Sir *Thomas* was to come out of the Tower within two days, and they all should be undone; whereupon the Countess sent for *weston*, and was very angry with him, that he had not dispatched Sir *Thomas Overbury*; *weston* told her, that he had given him a thing that would have killed ten men.

Also a fortnight after *westons* Apprehension, this Countess sent for *Francklin* into *S. James's Park*, where he, the Earl, and the Countess walking together; and as soon as he came, the Earl went apart into a Chamber, then she told him, *weston* hath been sent for by a Pursevant, and hath confessed all, and we shall be hanged; but on your life, quoth she, do
not

not you confess that you brought any Poyson to me or to *Mris Turner*, for if you do, you shall be hanged, for I will not hang for you; nor, saith *Mris Turner*, will I hang for you both.

The Countess told him, The Lord who was to examine him would promise him a pardon to confess, but beleeve them not, for they will hang thee when all is done.

Weston came to *Franklin's* House, and told, Now the Countess turn is served, she uses him unkindly, and they should both be poysoned, and that two were set on purpose to poyson him. *Franklin* having confessed his former Examination under his own hand, being permitted to speak for himself, said, That at the intreaty of the Countess and *Mistris Turner*, he did buy the Poysons, but protested his Ignorance what they meant to do with them, and for the rest he referred to the Conscience of the Jury, who went from the Bar, and within a quarter of an hour did return and pronounce him guilty: Then *Judg Crook* after a brief Exhortation gave the sentence of death upon him. The Lord Chief Justice made a short Exhortation also with addition of these words, that knowing as much as he knew, if this had not been found out, neither Court, City, nor any particular Families had escaped the malice of this wicked cruelty.



The Proceedings against Sir *Tho. Monson*, at the Guild-hall *London*, Decemb. 4. 1615.

WHen he came to the Bar, he made a Motion to the Lord Chief Justice, That whereas he had written to his Lordship to ask the Lord Treasurer two Questions, which my Lord would do; He desired then an Answer, and that Sir *Robert Cotton* might be present; the Question read, he was indicted for Conspiracy with *weston* for poysoning Sir *Tho. Overbury*, to which he pleaded not guilty; He would be tryed by God and his Country: The Lord Chief Justice broke up the Proceedings, and made a Speech to this effect.

That he saw a great Assembly, though it had been shewed them often, that the City was much bound to God and his Deputy here on Earth, the King his Master, for their great deliverance and exact Justice, for God was always good and just; and for the King, though they were never so high in place, nor so dear to him, though his own Creatures, yet his Justice is dearer to him, for which we are upon our knees to give him hearty thanks, as also for so milde Proceedings in so great an Affair: For neither the great mans House in the Tower, nor this Poysoners House to my knowledg, hath been searched, neither hath this Prisoner been committed to the Sheriff, but to an Alderman, a man who of all others might be most kind to him; whereas I take it, lest I should be mistaken

mistaken, Sir Francis Anderson married Sir Stephen Somes daughter, and Sir Thomas Monson married Sir Francis Andersons Sister ; I never knew the like favour, nor do I like it so well, but do declare it as a gentle Proceeding from the King. For other things, I do not discover secrets ; but though there were no House searched, yet such Letters were produced, which makes our deliverance as great as any that happened to the Children of Israel.

For *Weston* and Mistriss Turner dyed penitently, as it is worthy to be written in letters of Gold ; and for the Lievtenant, though with great Imprecations and with high hand he denyed it, yet to the great Glory of the Kings Justice he dyed most penitently and resolutely : This is spoken to the great Praise of God, that hath crowned these just Proceedings, *Iustitia confirmata non est Auctoritate*, though not having Reason for it, wherein we may see the great Hand of God. For that morning the Lievtenant was Arraigned came to me as one afflicted in Conscience, not knowing of his Arraignment, one with Evidence against him, which he delivered to the Jury, one of them heard him say (*the Lord have mercy upon me,*) and for this present (*non est constantia longa de vita hominis*) therefore he must be conveyed to the Tower as a safer place, till further order be taken.

Then he addressed his Speech to Sir Thomas Monson, saying, Whereas you name my Lord Treasurer, every mans fame is dear unto him, and he hath been dear and Honorable ; you shall hear what he hath answered to my Letter.

After my hearty Commendations, I hear that Sir Thomas Monson that I can clear him, but I hear nothing of him to accuse him, but I hope he is not guilty of so great a crime.

You hear, quoth he, that he will neither accuse nor excuse you.

Monson. I do not accuse the Lord Treasurer nor calumniate him, for I know he is very Honorable, but I desire to have Answer to my two Questions.

Lord Chief Justice. You shall hear more of that when time shall serve; do you as a Christian, and as *Joshuah* bid *Acan*, *My son, acknowledg thy sin, and give glory to God.*

Monson. If I be guilty, I renounce the Kings mercy and Gods; I am Innocent,

Lo. Ch. Justice. There is more against you then you know of.

Monson. If I be guilty, it is of that I know not,

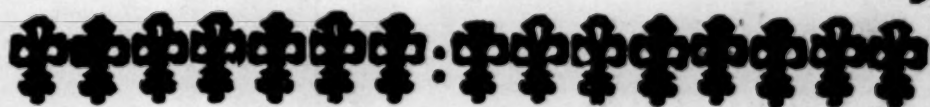
Lo. Ch. Just. You are Popish, that Pulpit was the Pulpit wherein *Garnet* denyed, and the Lievtenant as friendly; I am not superstitious, but we will have another Pulpit.

Just. Doddridge. It is an Atheists words to renounce Gods Mercy; but you must think the change of your Lodging means somewhat.

Hide. I have looked into this business, and I protest, my Lord, he is as guilty as the guiltiest man.

Monson. There was never man more innocent in this cause; I will live and dye an Innocent.

After this Speech, certain Yeomen of his Majesties Guard, attending for that purpose, conducted him to the Tower, where between the Yeomen and the Warders there was some Contention about his Entertainment.



A Relation of the Arraignment
of the Lord and Lady of So-
merfet, on Friday , May 24.
1616.

The Names of the Peers.

THe Earl of *Worcester*, L. P. *Seal*.
The Earl of *Pembroke*, L. *Chamberlain*.
The Earl of *Rutland*.
The Earl of *Sussex*.
The Earl of *Mountgomery*.
The Earl of *Hartford*.
The Viscount *Lisle*.
The Lord *Zouch*, Warden of the Cinq; Ports.
The Lord *Willoughby* of *Frisby*.
The Lord *de Laware*.
The Lord *Dacres*.
The Lord *Mountegle*.
The Lord *Wentworth*.
The Lord *Rich*.
The Lord *Willoughby* of *Parham*.
The Lord *Hunsdon*.
The Lord *Russel*.
The Lord *Compton*.

The Lord Norric.

The Lord Gerard.

The Lord Cavendish.

The Lord Dormer.

The Lord Elsmore, Lord Chaniels, and Lord
Steward, *hac vice*.

His Assistants there present in the Commis-
sion.

Sir Edward Cook, Lord Chief Justice of Eng-
land.

Sir Hen. Hobart, L. Chief Justice of the Com.
Banc.

Sir Law. Tanfield, Ch. Baron.

Judg Crook, Banco Rege.

Judg Nichol, Com. Banc.

Sir Fran. Bacon, Attor. General. } These three
Sergeant Mountague. — } only spake.
Sergeant Crew. ————— }

Sir Hen. Yelverton, Solic. Rege.

Sir Fran. More, Servien. Rege.

Sir Lawr. Hide, Attor. Reginae.

Mosley, Attornat. Ducat.

Sir Io. Davis, Servien. Rege.

Mr Walter, the Princes Attor.

Mr Finch, Keeper of the Records of Attain-
Sergeant More. (ders.

Sergeant Finch.

The Names and form of their sitting.

WHen my Lord Chancellor, who for his time was High Steward of *England*, came into the Court, there came before him six Sergeants at Arms with their *Maces*, Sir *Geo. Coppin* with his *Pattent*, Sir *Rich. Connisby* with his *White Staff*, Mr *Mannering* with the *Great Seal*, he himself at the upper end of the Board sitting under a Cloth of State, of both hands of him the Peers, under them the Iudges, at the further end of the Kings Council below the Iudges, on one side, *Finch* the Keeper of Records of Attainders, the Clerk of the Crown and his Deputy in the midst of the Court, the Sergeant Cryer standing by him; Sir *Rich. Connisby*, Sir *Geo. Coppin* the Seal-Bearer, and at my Lord Stewards feet the *Prisoner* at a Bar, behind the Kings Council the Lievtenant of the Tower in a little space adjoyning to the Bar.

All being silent, Sir *Geo. Coppin* arises, delivers the *Pattent* to the *Lord High Steward*, upon his knee, he received it, and kisseth it, and returns it to Mr *Fanshaw*, who takes it kneeling; then the Sergeant Cryer makes Proclamation in the Lord High Stewards name to keep silence; then Mr *Fanshaw*, (which bears date *May 10.*) Then there is another O Yes to certifie my L. Steward, whether *Weston* were committed as principal for the murther of Sir *Tho. Overbury*: Then the Lord Chief Iustice delivers a Schedule indorsed with Certificates of four Iudges of the Kings Bench, and other the Commissioners; then *Fanshaw* turning unto my Lord Steward reads a third O Yes for certifying other Indictments. My Lord *Cook* delivers another Schedule, indorsed with Certificate of my Lady of *Somersetts* Indictment; which
Mr

Mr *Fanshaw* as before reads. A fourth *O Yes* for *Walter Lee* Serjeant at Arms to return the Precept for the Peers of *Frances Countess of Somerset*, which accordingly he, after his three Reverences to the Lord High Steward, delivered to Mr *Fanshaw*, he reads the Indorsement. A fifth *O Yes* to call the Lords, summoned by the Command of my Lord High Steward, to answer to their Names, which accordingly they did, beginning as at the first, as every one was named putting of their Hats, standing up until the next was named. A sixth *O Yes* to the Lievtenant of the Tower to return his Precept, and bring his Prisoner to the Bar, which he did, and gave his Precept to the Serjeant, who gave it to Mr *Fanshaw*, and he as afore read the Indorsement. The Prisoner made three Reverences to his Grace and the Peers, being attired in black Tammel, a *Cyprus Caperoon*, a Cobweb Lawn Ruff and Cuffs.

Lord Steward. My Lords, the Reason why you are called hither this day, is to sit as Peers of *Frances Countess of Somerset*.

Fanshaw Clerk of the Crown. *Frances Countess of Somerset*, hold up thy hand ; she does so hold it up, till Mr Lievtenant told her she might hold it down ; and then reads the Indictment, containing *westons* Actions, in the poysoning of Sir *Tho. Overbury*, and her Abetting him the 8 of *May*, 1613.

All the while the Indictment was reading, the Countess of *Somerset* stood looking pale, troubled, and shed some few tears, and at the first naming of *weston* in the Indictment, she put her Fan before her face, and there held it half covered, till the *Indictment* was read.

Fanshaw. *Frances*, Countess of *Somerset*, what sayst thou ? art thou guilty of this Felony and Murder, or not guilty ?

She

She making an obeylance to the Lord High Steward, answered, *Guilty*, and with a low voyce, but wonderful fearful.

My Lady upon the Arraignment having pleaded Guilty, the Proceedings after was thus :

Attourney. May it please your Grace, may Lord High Steward of *England*, I am glad to hear the Ladies so free Acknowledgment ; for Confession is noble : Those that have been formerly indicted at their Arraignments persisted in denial, as *Weston*, *Turner*, *Franklin*, *Elvish* ; but you see this Ladies Humility and Repentance by her pleading, and certainly she cannot be but a spectacle of much Commiseration, if either you respect the Sex, a woman, or her Parentage, Honorable.

But this and to morrow day is to crown Justice ; the Mercy seat is the inward part of the Temple, the Throne publique ; and therefore I do now only pray a Record of the Confession and Judgment ; but since the Peers be met together, for Honours sake it is good to declare the Kings Justice.

This is the second time since the Kings coming these thirteen years, that any Peers have been arraigned, and both these times your Grace hath had the place of *High Steward*.

The first was *Gray* and *Cobham*, and though they were convicted, yet Execution followed not ; No Noble blood hath been spilt since His Majesties Raigh.

The first was Revenge of Treason against Malecontents, and this of the particular offence to a private Subject against those that have been so high in the Kings grace and favour, and therefore deserves to be written in a Sun-beam ; but his being the best Master in the World, hinders him not from being the best King ; for he can as well plain a Hill, as
raise

raise a wall ; a good Lesson to put to my Lords, the Peers : He is Lievtenant to him that is no Respector of persons.

This that I shall now speak of, may be reduced to that which was acted in the Vault, and since upon the Stage. The first I will not now enter into, because I will neither grieve a Lady that is present, nor touch a Lord that is absent, my duty requires it not, and my Humility forbids it. That which hath been upon the Stage, the Theater of Gods Iustice ; you shall understand that which hath been worthily acted by the King in this whole Work of Iustice, and right well by his Ministers. *Overbury* dyed poysoned the 15 of September, 1613. in the Tower of London ; He was no sooner dead, but there was a certain Rumour and Muttering, that *Vox Populi*, that *Overbury* came strangely by his death ; and at that time on the contrary there was another Rumour, but that was *Vox Diaboli*, that he dyed of a foul disease, so foul a one, as is unfit for me to name ; but for two years after this, though *Overburys* blood cryed for vengeance, *Vox Dei* was not heard : *Gloria Dei celare Regis perscrutare rem* ; It is the Glory of God to conceal a thing, of a King to find it out ; yet all the while God so dazled the eyes of these two great Procurers and their Instruments, that the first looked not about them, the other fled not.

About the beginning of the first Progress it first broke forth ; and as all Murthers are strange in their discovery, so this was miraculous, for it came out in a Complement, thus : My Lord of Shrewsbury who is now with God, commended Sir *Gervise Elvish* to a Councillor of State, and told him that Sir *Gervise*, in respect of good report he had heard made of his Honour and Worth, desired to be made
known

known unto him ; That Councillor added , that he took it for a favour from him, but withall added, there lies a kind of heavy Imputation on him about *Overburies* Death, I could wish he could clear himself, or give some satisfaction in the point : This my Lord related back, and presently *Elvis* was struck with it, and made a kind of discovery, that some attempts were undertaken against *Overbury*, but took no effect as checkt by him.

This Councillor weighing well the Narration from *Elvis*, acquainted the King with the *Overture*, who commanded presently that *Elvis* should set down his knowledg in writing, which accordingly he did, but always reserving himself, still endeavoring rather to discover others, then any else should undertake that Office, and so accuse him.

The King still endeavors to search the truth of this business, gives Direction for the Examination of the Truth of it, commits it to certain Councillors ; they pick something out of him and *weston* ; then the further Enquiry is delivered over to my Lord *Cook*, who in this Cause was very painful, took two and three hundred Examinations ; but when he found it might touch upon greater persons, then he desired some others might be joyned with him, which was accordingly granted, namely, the Lord *Chancellor*, Lord *Steward*, and the Lord *Zouch* ; but then there were no practices left untryed for the suppressing of the Discovery: *weston* was solicited to stand mute, but at last this dumb Devil was cast out, then followed *Elvis*, *Turner*, *Franklin* ; all which were Actors in this Tragedy without Malice, but no Authors. Now when this Lady comes to her part, she meets Justice in the way by Confession, which is either the Corner stone of Mercy or Judgment ; yet it is said,
Mercy

Mercy and Truth are met together : Truth you have in her Confession, and that may be a degree to Mercy ; with me it must be, and to him in whose Power it resides, in the mean time this day must be reserved for Judgment.

Now to conclude, and give you Accompt of the often Procrastinations in this business ; the first was due to Humanity, her Child-birth, the second was for reason of state, and the last had a grave and weighty Cause.

These Directions the King at first gave, written with his own Hand for the Examination of this business, I desire may be read.

The Kings Instructions.

THere be two contrary things in this Cause to be tryed, and the verity can be but in one of them. First, whether my Lord of *Somerset* and my Lady were the Procurers of *Overbury's* death, or that this Imputation hath by some practice cast an aspersion upon them ; I would have you diligently inquire of the first, and if you find him clear, then I would have you as carefully look after the other, to the intent such practices may be discovered, and not suffered to pass without punishing.

Attourney. There be other Directions in these Instructions by way of Interrogatories, that are not now necessary to be read ; let the *Lords*, the Peers, view these Directions from the King.

None of these Interrogatories, which the King desired there should be examination upon, came away empty ; and whatsoever whispering there be abroad of the death of *Weston*, they all before the hour of their death confessed the fact, and dyed penitent ; and if need should require, I have brought their

Confessor

Confessor along, namely Doctor *Whiting*.

Lord Steward. My Lords, you have seen and have heard these Directions under the Kings Hand, with Glory to God, and Honor to the King,

Attourney. May it please your Grace, whereas *Frances Countess of Somerset*, as accessary before the fact of the wilful poysoning and murder of Sir *Tho. Overbury*, upon her Indictment she hath been Arraigned, then upon her Arraignment she hath confessed Guilty, I desire that her Confession may be recorded, and Judgment upon the Prisoner.

Fanshaw. *Frances Countess of Somerset*, thou hast been Indicted, Arraigned, and pleaded Guilty, as accessary before the Fact of the wilful poysoning and Murder of Sir *Tho. Overbury*; what canst thou say for thy self, why Judgment of death should not be pronounced against thee?

Countess. I can much aggravate, but nothing ex-tenuate my fault; I desire Mercy, and that the Lords would be pleased to intreat for me to the King: This she spake humbly, fearfully, and so low, that the Lord Steward could not hear it, but the Attourney related it.

Attourney. The Lady is so touched with remorse and sense of her fault, that grief surprizes her from expressing of her self, but that which she hath confusedly said is to this effect, That she cannot excuse her self, but desires mercy.

Sir *R. Connisby* sitting before the Lord High Steward, rises, and upon his knees delivers him the white staff.

Lord Steward. *Frances Countess of Somerset*, whereas thou hast been indicted, Arraigned, and pleaded Guilty, and confessed that thou hast nothing to say for thy self, it is now my part to pronounce Judgment, only thus much before; since my Lords have
heard

heard with what Humility and grief you have confessed the Fact, I do not doubt but they will signify so much to the Kings Majesty, and mediate for his Grace towards you, but in the mean time, according to the Law, the sentence of death must be thus :

Thou must go to the Tower of London from hence, and from thence to the place of Execution, where you are to be hanged by the Neck till you be dead, and Lord have Mercy upon your Soul.

The

*The Arraignement of the
Lord of Somerset, May
25. 1616. being Saturday.*

ANd first, what was done before the Pleading.
Sergt. Cryer. O Yes, My Lord High Steward
of England purposes to proceed this day to the
Arraignement of Robert Earl of Somerset.

O Yes, Whosoever have any Indictments touch-
ing this Cause, presently give them in.

✓ The Lord Cook delivers the Indictment of my Lord
of Somerset to Mr Fanshaw endorsed.

Walter Les Sergeant at Arms, return the *Precipe*,
for the Lords which thou hast warned to be here this
day.

O Yes, He calls every Lord by his name, and they
stand up as they be called.

The Lord Steward excuses the Lord Mountegle and
Rusel of their absence in respect of their sick-
nels.

Fanshaw. Robert Earl of Somerset, hold up thy
hand; He held it up so long, till Mr Lieutenant bid
him hold it down. The Indictment is read, contain-
ing *VVestons* Actions in the poysoning of Sir Tho:
Overbury, and his abetting of him the 8. of May,
1613.

The Lord *Somerſet* was apparelled in a plain Sattin Sute, laced with two Sattin laces in a ſeam, a Gown of uncut Velvit, all the ſleeves laid with a Sattin lace, a pair of Gloves with Sattin tops, his George about his Neck, his Hair curl'd, his Viſage pale, his Beard long, his Eyes ſank in his Head, whileſt his Indictment was reading he three or four times whiſpered to the Lievtenant.

Fanſhaw. Robert Earl of *Somerſet*, what ſaiſt thou? art thou guilty of this Felony and Murder whereof thou ſtandeſt indicted, or not?

Somerſet making obeysance to the Lord Steward, answered, Not guilty.

Fanſhaw. How wilt thou be tryed?

By God and the Country; but preſently recalling himſelf, ſaid, By God and my Peers.

O Yes, All you that be to give in Evidence againſt Robert Earl of *Somerſet*, who ſtands now at the Bar upon his deliverance, make your appearance, and you ſhall be heard what you have to ſay againſt him.

My Lord of *Somerſet* upon his Arraignment having pleaded not guilty, the Proceeding after was thus.

Robert Earl of *Somerſet*, you have been Arraigned, and pleaded not guilty, now whatſoever you have to ſay in defence of your ſelf, ſay it boldly without fear; and though it be not the ordinary cuſtom, you ſhall have Pen and Ink to help your memory; but remember that God is the God of Truth; a fault defended is a double Crime; Hide not the verity, nor affirm not an untruth, for to deny that which is true increaſeth the offence; Take heed leſt your wilfulneſs cauſe the Gates of Mercy to be ſhut upon you.

Now for you my Lords the Peers, you are to give diligent attention to that which ſhall be ſaid, and you muſt not reſt alone upon one peece of Evidence,
but

but ground your Judgment upon the whole.

This moreover I would have you remember, that though you be not sworn as common Juries upon a Book, yet you are tied in as great a Bond, your own Honors and Fidelity, and your Allegiance to the King, and thus I leave the whole Proceedings to your Censure; and for you that be of the Kings Council, free your discourse from all partiality, and let Truth prevail, and endeavor to make it appear.

Sergeant *Moultagne*. My Lord High Steward, and you my Lords, I know this cannot be but a heavy spectacle unto you, to see that man that not long since in a great place with a white Staff went before the King, should now at this Bar hold up his hand for blood: But this is the change of Fortune; nay I might better say the Hand of God, and Work of Justice, which is the Kings Honor. But now to the Fact.

Robert Earl of Somerset stands indicted as accessary before the Fact of the wilful Murther and poysoning of *Sir Tho. Overbury*, done by *Weston*, but procured by him.

This, my Lords, is your Charge; the Indictment hath been found by men of good quality, or Knights and Esquires of the best rank and reputation, some of whose names I will be bold to read unto you, *Sir Thomas Fowler*, *Sir Will. Slingsby*, and five more, these have returned *Bille Vera*.

Weston at four several times gave *Overbury* four several Poysons, the first *May 9. 1613.* that *Rosaker*, carrying this Poyson in one hand, and the Broth in the other hand; the second was in *June* following, and that was *Arsnick*; the third was in *July 10.* then following, and that was *Mercury Sublimate*; the fourth was on the *14 of September*, and that was *Mercury Sublimate* in a Glister, given by *Weston*, and an

Apothecary yet unknown, and that killed him.

Of these four several Poysons, ministred by *weston*, and procured by him the 15. of Sept. 1613. *Overbury* dyed, and the Author is ever worse then the Act.

The first Poyson laid in the Indictment that *weston* gave Sir *Tho. Overbury*, was the 9. of May, and therefore we say, the Lord of *Somerset* May 8. hired, counselled and abetted *weston* to that Fact: And as this (my Lord) I do charge you for a King; so King *David* was charged in the like case for the murther of *uriah*; and though *David* was under his Pavilion, and *uriah* in the Army, yet *David* was the cause of his murther: So you were in the Kings Chamber, and *Overbury* in the Tower, yet you were the Cause, and it is you that killed him. It was a stronger hand then *westons* that wrought this; the proof Mr Attorney will follow: And now will I conclude with desires to the Peers, that they will not expect visible Proofs in a work of darkness.

The second, That whereas in an Indictment there may be things laid only for form, you are not to look that the Proof should follow that, but only that which is substantial; and the substance only must be this, Whether my Lord of *Somerset* procured or caused the poysoning of Sir *Thomas Overbury*, or not?

Lord Steward. That indeed, my Lord, is that which you are to look after, whether my Lord *Somerset* was the Cause of his poysoning, or not.

Cook. This was well moved by Mr Recorder, and the Law is clear in this point, that the proof must follow the substance, not the form.

The Judges all rising, affirmed this to be true.

This, my Lord, is certain, the Law gives form in Indictments, but only substance in Proofs.

I know, my Lord High Steward, and you the Lords the Peers, that you cannot behold this Lord at the Bar without the remembrance of his former greatness, yet a Peer amongst you, and therefore I know you will be very tender in the cutting of him off from your number without good Evidence; We, my Lords, that be to speak against him, have received an admonition from the King, to use no Invectives, but give in pertinent Evidence; I think we should have done so howsoever, but yet we cannot but be glad of so good a Warrant; we will therefore carry the Proof upright against all Evasion, the Evidence will bear it self. That which I am now to speak, I will divide into four Parts.

The first shall be of the greatness of the Crime, not to weigh or press you down (my Lord) but to shew that the King was bound by his Oath to bring this Cause to Judgment, though you had been the Signet of his right Hand.

The second shall be, what Proof I hold to be competent in this Case.

Thirdly, I will state and sum up the Proof.

And fourthly, I will produce Oaths or Writings confessed.

First, Of all kind of Felonies this is the greatest, and that I will urge thus: First, It is Murther, the first Record we ever read of in the Bible was a sentence upon Murther; and though *Cain* was not punished with death in respect of the *Primogenite*, or some other secret Causes, which God reserved to himself, yet he was sentenced. Although *Joabs* sentence for the Murther of *Abner* was respited, yet it was not forgotten, no Sanctuary could relieve him, he was raken from the Horns of the Altar. In the second Table the first forbidding Commandment is, *Thou shalt not Murther.* And some other most

learned Rabbins that referred that Commandment where the Obedience of Parents is expressed to the first Table; so then this is the first of the second.

My second Aggravation is, that this Murther is by Poyson; Poyson is a forraign practice, fir for Rome and her Doctrine; It hath these three Attributes.

First, It is fierce, it takes a man suddenly in Gods Peace and the Kings, when he thinks least of it.

Secondly, It is easily done, and once conceived hardly prevented or discovered: Princes have their Guards about them to withstand any force or violence, and Gentlemen their Servants, for that never comes but with a noise; whereas on the contrary, there are a number of Poysons, that they will neither distaste nor discolour that they be put into.

Thirdly, It takes not only away the party maliced or meant; it is like an Arrow shot that hath no aym; and if Facts of this kind were not met withall by condign punishment, what society would there be amongst men?

In the 22. *Hen:8.* a Poysoner ayming at one man, poysoned a dish of Barm, at this time there was a feast at the Bishop of *Rocheesters*, that Barm was unwittingly used in Broths and boyled meats, sixteen at the Table were poysoned with it, nay it went as far as the Alms-basket, and some poor dyed of it.

Well, this year Poysoning was esteemed so great an offence, that a Statute was made to make it High Treason.

My third Aggravation is, That it was against the Kings Prisoner in the Tower, where the King and State were in a manner bound to answer for him; and, my Lords, till now there hath been no Murther in that place since the Nephews of King *Richard* the third

third were there murdered by his Command.

My second general Division is, What Proofs I hold to be compleat in this Case; I hope my Lords the Peers will consider, that of all Murthers Poysoning is the most secret: And therefore to look for Testimonies direct, is to say, that they proclaim impunity; who should have impeached *Parasapis*, who poysoned one side of a Knife, and eat with the other. But, my Lord, you are not to enquire of actual impoysoning, but the procuring and facilitating of it; and that is to be an Abettor before the Fact if any middle course should be used, to the intent such a matter might be effected, if afterwards it be done.

For example; There be three intended to Rob a man, one sends a Letter to him upon some pretended business to draw him such a way, the other fearing he may carry some company with him, useth some means to divert him from that, and proffers to go with him himself, and holds him in discourse, until the third man comes upon him, and doth the fact; certainly all these are guilty.

It is not he only that slips the Dog, but he that loves the Toyl, that kills the Deer. But these things, my Lord, are so perspicuous that I will not dilate.

My third Division was the stating and summing up the Proofs, and that shall be thus:

First, A plain Narrative of the Fact it self.

Secondly, The distribution of it into parts, and applying of the Evidence.

And thirdly, The Production of Witnesses and Writings.

Somerset, I humbly desire to answer every particular as it is objected against me; my memory is short, and so I may omit to Answer some of the most principal Objections.

Lord Steward. The constant course of the Court must be kept ; you cannot interrupt the Kings Council ; they must give their Evidence entire before you come to your Answer ; you have now Pen and Ink to observe what they urge against you ; and if after you omit any thing, when you come to your Answer, you shall have all the Helps that can be afforded you.

Mr Attorney. My Lord of *Somerset*, in substance I will answer and satisfie your Request, for you shall have three Cogitations.

First, Take your aym of that that shall be objected against you in the Narrative ; then a second in the distribution of it into parts ; and lastly the third, when the Witnesses shall be produced, and more when you come to your Answer ; if you omit any thing that hath been objected against you, I will put you in mind of it.

Now for the Narrative, the Friendship and familiarity betwixt my Lord of *Somerset*, and Sir *Thomas* was so great, if you beleve him in his own Letter, but he was a *Trafanical* Fellow, that the Ballance had need be altered, that the greatest matters and secrets of State, which my Lord executed under the King were all communicated unto him, not whisperingly, or by peccce meals, as sometimes Councillors use to do to their friends for a favor ; but *Overbury* took Copies, Registers, and Extracts of all that passed ; they had Ciphers between them, which went under the name of *Jergins* of the King and Queens name, and all the Councillors of State ; and this kind of Characterical writing is never used but by Princes, or their Embassadors ; if by others, then by such as be Practisers against them ; yet, my Lord, I charge you with no disloyalty.

I remember a Speech Your Grace hath often said in Chancery, That Fraud, Frost and foul weather; I might adde without disloyalty, of Friendship of ill men; And so, my Lord, it proved on your part to Sir Thomas Overbury, occasioned thus, You went about an Unlawful Love, designed by my Lord of Northampton, opposed by him under pretence of Friendship, though in truth that was not the occasion, but his Unwillingness to have any Partners in your Favour besides Himself: For He Himself writes in a Letter to you, That you won her by his Letters; but this imperious unbounded Fellow, Overbury, first began with Threats, in respect of the communication of Secrets; Here upon this, there grew two streames of Hatred upon Him, one from You, and another from my Lady, but yours of a more nigher nature; for your self confessed, That he had such hold of you He might overthrow you, There was a third stream besides these, and that came from my Lord of Northampton; And from you three Overbury was concluded *Filius Mortis*.

Now how this should be executed, the means for that was now to be thought on; And for that there was but two Ways, Violence or Poyson.

The first was attempted, but that failing, you fell upon the second, how should that be effected? If he had been abroad, or at liberty, you know he had too jealous a Head to be easily entrapped; what then was to be done one way, but was to be cooped up? but how must that be done? There, my Lord, you plead a perfidious part by your Plot: **OVERBURY** was designed

designed for an Honorable Employment beyond the Sea, and dissuaded by you, animating him to refuse the Kings Command; upon this, for his contempt he is committed to the Tower; when he was there must he have the liberty of the Ayr? No; He must be committed close Prisoner, that you might the better compass your desires. There you had him fast, there was no avoyding of it, but death must be his bane.

Now for the knitting up and connection of these things, If you had not a Lievtenant to your hand, and an Under-Keeper for your purpose, all was but in vain; and so you ordered it: for *Overbury* had not been five days in the Tower, but *VVade* was dispatched, *Elvis* put in, *Caris* his old Keeper put out, and *Wesson* his Poysoner put unto him. And though the placing of Sir *Jervise Elvis* was consulted in ten days before his Imprisonment, yet all was resolved and done within five days after.

Now for the last Act of the Tragedy; When he was there, and close Prisoner, none of his Friends might come to him, neither Father, nor Kindred, nor his Servants, nor none but his Poysoner. Now *Franklin* was sent for, he must buy Poysons, not such as would quickly kill him, but by degrees, to avoyd all suspicion. And then there was nothing came to him, Salt, Sauces, Tarts, Medicines, Glysters, that were not poysoned. All the Petitionary means that were either made by him or his Friends, for his Liberty, were stopped, though entertained by you my Lord of *Somerset*; You used him as Fortune-Tellers do poor people in the Country, hold them in a Tale while they steal away their purse. Now my Lord of *Somerset*; for the distributing of it into parts, and applying the evidence to make you guilty, we will
prove

Prove it by matter precedent, present, and subsequent.

First, There was a mortal hatred on your part against Sir *Tho. Overbury*.

Secondly; You used the means to expose him to the Tower, and there to keep him close Prisoner. After these two I will follow the Proofs myself.

Now for matter present, That your hand was in poisoning *Overbury*, directed, delivered Poysons, thirsted after the news; The prosecution of this I leave to speak of. After his death you took the course that every guilty man would do in such a case, suppressing Testimony, Letters, and going about to get a pardon.

Now for a hate of Sir *Tho. Overbury*, together with a fear of his revealing of secrets; You made a vow that he should neither live in Court or Country, that if he came out of the Tower one of you two must dye. Now of *Overburies* part he writes to you, That if he dye, your shame shall never dye; prays God you repent not the neglect of him in that place from whence he writes to you. Now by way of exclusion you cannot alledg, That this your hatred to him, and plotting his Commitment, was in respect to your Wife; why then did you not suffer him to go beyond Sea? No, the bargain was made, the poysons were ready; there were some secrets, together with your malice towards him, was so great, that there was no safe course for you, in your opinion, but this death.

And for the producing of my proofs I will use this course; Those Examinations that have been taken upon Oath shall be here read, the witnesses also I have caused to be here, that they may be sworn, and to justify or deny what they hear read; and to diminish or add to their Examinations: And beside, that

that you my Lord of *Somerset*, and you my Lords the Peers, may ask them what further questions you please.

Tho. Payton, Sir *Thomas* his Servant: He saw a Letter of his Masters, whose hand he knew to be my Lord of *Somerset*, wherein were these words, *If I dye, my blood lie upon you*. And in that or another Letter there was this clause, *You are now as good as your word, you have kept your word to me*: Moreover, that in the privy gallery in *Whitehall* my Lord of *Somerset* coming late to his Chamber met there with Sir *Tho. Overbury*; How now, says my Lord, are you up yet? Nay, answered Sir *Thomas Overbury*, what makes you here at this time of the night? Will you never leave the company of the base Woman? and seeing you do so neglect mine advise, I desire that to morrow morning we may part, and that you will let me have that portion you know is due to me; And then I will leave you free to your self, to stand upon your own legs.

My Lord answered, His legs were strong enough to bear himself, and so departed in great displeasure, and to his knowledg they were never perfectly reconciled again: And being asked how he heard this discourse, He said, it was in the dead of the night; and he being in a room within the Gallery, heard all that passed.

Henry Payton. I acknowledge every part of this Examination to be true, and more, That my Master being in the Tower, he sent a Letter by *Wester* to me to carry to my Lord; and more, to deliver my Lord this message, That the powder he had sent him made him very sick, and gave him in one night sixty stools, be-
side

side vomits. This Letter I carryed to the Court, and delivered to Mr Rawlin to carry in to my Lord, who was then in his Chamber. My Lord presently came out and asked me how my Master did, I told him, very sick; and withall this message, and how the Physick had wrought with him; My Lord smiled, and said, Pish, and so turned him away.

Lawrence Davis, Sir Thomas Overburies Servant, Saith, That he hath heard his Master say, that he would have gone Embassador, but that my Lord of Rochester dissuaded him; He hath seen some Letters of Sir Thomas Overburies, wherein he wrote, My Lord of Rochester was even with him; but he thinks he never saw those passages.

Somerset. I pray you my Lords note; He says, I never saw the passages.

Attorney. It is true, those Letters were lost, but easier found by him who knew his Master Sir Thomas Overburies hand.

Sir Thomas Overburies Letter.

Is this the fruit of my care and love to you? Be these the fruits of common secrets, common dangers? As a man you cannot suffer me to lie in this misery, yet your behavior betrays you: All that I entreat of you is, that you would free me from this place, and that we part friends: Drive me not into extremities, lest I say something that you and I may both repent: and I pray God you repent not the omission of this my Counsel in this place from whence I now write this Letter.

Wentworth. How did you know these Letters were sent from him to my Lord of Somerset.

Attorney

Attorney. It is true that those letters were lost, but after found by him who knew his Master Sir *The Overburies* hand.

Cook. They were found in a Cabinet amongst some other things left in Trust by my Lord of *Somerset* with Sir *Robert Cotton*, who fearing searchers delivers them to a Friend of his in *Holborn*, one *Mistress Farnforth*; she, to the intent they might be safely kept, sent them to a Merchants House in *Cheapside*, where some seven Moneths before she had lodged, and desires they might be safely kept for her, pretending they were some Writings which concern her *Joynture*. On *Saint Thomas* day she her self comes to have them again, saying, she must carry them to her Council to peruse: *If you will, suffer me to open it before you* (says the Merchant,) *and that there be nothing else, you shall have them.* But she by no means would consent to the breaking of it open: Then he answered, It is a troublesom time, I will go to the *Lord Chief Justice*, and if he finde no other Writings but such as concern you, you shall have them again. So coming to my Chamber, and not finding me within, (for I was gone to *Pauls* to the Sermon) He went to my Lord *Zouch*, one of the appointed Commissioners for this Cause, who he himself would not break it open, but came to *Pauls* to me, and in a by-room brake it open, and found in it many Letters, which were disadvantageous to my Lord of *Somerset*.

These matters being made evident, need no further to be amplified; For my Lord, As it is a principle in Nature, *That the best things are in their corruption the worst*; And the sweetest wine makes the sharpest Vineger; So fell it out with my Lord of *Somerset*

Somerſet and Sir Thomas Overbury, that this exceſs (as I may call it) of Friendſhip ended in mortal hatred on my Lord of Somerſets part.

The Indiſtment being found, my Lord High Stewārd, confirmed with the Opinion of the other Judges, did pronounce the *Sentence of Death* upon my Lord of *Somerſet*, and ſo the Court diſſolved.

FINIS.

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